

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

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**West Bengal Electricity Regulatory Commission Tariff Regulations
(Fourth Amendment), 2023**

STATEMENT OF REASONS

Dated: 13th March, 2023

1. Introduction:

In keeping with the provisions of the Electricity Act 2003, West Bengal Electricity Regulatory Commission (hereinafter referred as 'WBERC' or 'the Commission') had framed and published the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2007 vide notification no 31/WBERC on 09.02.2007 specifying the terms and conditions for determination of tariff as well as the methodologies and procedures for calculating the expected revenue from tariff & charges and other matters as under section 41, 45(2), 61, 62, 63, 64 and 65 of the Electricity Act 2003 (hereinafter referred as "Act"). Subsequently the Commission had amended the Regulations vide notification no 38/WBERC and 41/WBERC on 31.12.2007 and 16.10.2009 respectively. The Commission on 29.04.2011 vide notification no 48/WBERC notified West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 in supersession of Notification no 31/WBERC dated 09.02.2007 with all subsequent amendments.

The Indian Power sector is very dynamic. Changes have been taking place very rapidly. It have been a regulatory challenge to cope up with the emerging changes in the power sector. Further, in many cases, the regulatory interventions are acting as an agent of change. To cope up with this, the Commission has already made three amendments to West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 on 27.08.2012, 30.07.2013 and 21.01.2020 vide notification no 49/WBERC, 58/WBERC and 65/WBERC respectively (hereinafter collectively referred to as 'the Principal Regulation').

2. Background and Objective of 4th Amendment

While formulating the Tariff Regulation in 2011, the Commission had to take into consideration different factors like the prevailing energy and peak deficit, need for stimulating investment (particularly private) in the power sector, the anticipated growth of demand, need for maintaining

a fine balance between the interest of consumers and the interest of investors etc. Since the notification of Tariff Regulations, 2011, there have been significant changes in the Indian power sector. The country has successfully made a transition from shortage of power to surplus of power. As a result, intense competition has emerged in the power market. Further, the generation mix has undergone revolutionary changes with the thrust for infusion of Renewable Energy Sources as well as low pace of capacity addition in hydro power. Introduction of RES into the grid has given technical, operational and regulatory challenges. But the Tariff Regulation, 2011 has not been significantly changed to accommodate the changing scenario. Only some piecemeal changes in the form of amendments have been brought out. As a result, it is found out that some of the methodologies followed by WBERC in tariff Regulation 2011 are not in tune with that of CERC and other SERCs. These deficiencies have been pointed out from time to time by the stakeholders. Further, this has also given rise to innumerable legal disputes.

The Commission has already decided that the next tariff period will be of 3 years i.e., from 2023 – 24 to 2025 – 26. It is felt by the Commission that it would be prudent to align the Tariff Regulation of WBERC with that of CERC and other SERCs at least to address some of the critical long pending issues so that these may be factored while finalising the tariff for the 8th Control period. However, due to time constraint, it was considered infeasible to replace the Tariff Regulation 2011 in its entirety and bring out a new tariff regulation. So the Commission considers it prudent to bring an amendment to the Tariff Regulation, 2011 to be called as ‘West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (4th Amendment) Regulations, 2023’ by addressing the following major issues:

1. Treatment of Depreciation:

The existing WBERC Tariff Regulations, specify the flat rate of depreciation using a straight-line method considering the useful life of the asset and a salvage value of 10%. The depreciation so arrived at is used for repayment of capital loan. In terms of the existing regulations, when depreciation falls short to take care of the obligation of loan repayment during the year, Advance Against Depreciation (AAD) is allowed in the tariff. On the other hand, if depreciation so determined is in excess of the amount needed for loan repayment, interest credit is charged and deducted from the Aggregate Revenue requirement (ARR).

The Tariff Policy 2016 in clause (c) of paragraph 5.11 inter-alia prescribed that there should be no need for any advance against depreciation. The benefit of reduced tariff after the assets have been fully depreciated should remain available to the consumers. Accordingly, CERC in its Regulation has proposed accelerated rate of depreciation during initial years of the project to ensure loan repayment without any need for AAD. For this

purpose, normative debt : equity ratio of 70:30 has been considered. Once 70% of the asset gets depreciated (i.e. loan amount is repaid) using accelerated depreciation during loan repayment period, balance depreciable amount is spread over the balance useful life of the project. Most of the SERCs have adopted such principle.

The proposed principle is simple to maintain and more transparent. Further it will avoid the reconciliation process of already allowed AAD after repayment of loan. Thus, the Commission through this 4th Amendment proposes to adopt the same principle to align WBERC Tariff Regulations with the Tariff Policy 2016.

However, for transition from earlier mechanism to this new mechanism, particularly for licensees having old assets, a provision has been kept to consider the previous assets upto 31.03.2022 as a block of assets of specific category for the purpose of accelerated depreciation upto 70% of asset value.

2. Treatment of Loan Capital:

In the existing regulation, actual repayment and interest paid on capital loan during the year are allowed under the tariff. Any part of equity over and above 30% of asset value is treated as normative loan and interest is also allowed for said normative loan at average interest rate considering a normative amount of repayment.

The depreciation rates are increased with an objective to ensure adequate repayment of the normative loan upto 70% of asset. Hence the interest on loan needs to be computed considering such normative repayment of loan equivalent to the depreciation allowed in the tariff. Further, with this normative approach, no separate treatment for actual capital loan and normative loan (equity over 30% asset value) is required. The same principles are followed by CERC and has been adopted by most of the SERCs.

This mechanism will also protect the interest of consumers, in case the licensees fail to repay the principal loan and continue to pay perpetual interest. Thus, the Commission through this 4th Amendment propose to adopt the same principle for computing interest on loan capital.

3. Rate for return on equity:

As mentioned earlier, the existing WBERC Tariff Regulation was formulated in 2011 considering the prevailing power shortage scenario, the need for attraction of investment

in the sector and the stability of return vis-à-vis the opportunity cost. Accordingly, a high rate of return was allowed in power sector, viz 15.5% for generation and transmission business and 16.5% for distribution business. The whole scenario has undergone vast changes during the last 12 years. The generation sector now boasts of adequate surplus capacity. The stranded surplus capacity has led to discovery of price through intense competition. One of the basic objectives of Electricity Act, 2003 was to attract private investment in the power sector. This has been achieved to a great extent. Further, the financial market has greatly stabilised and abnormal high rate of inflation has become a thing of past. Banks now offer a very competitive interest rate. Hence, the Commission, keeping the interest of the consumers in mind, has decided to review the rate of return on equity.

Thus, the Commission through this draft 4th Amendment proposes 14% ROE for generation and transmission and 15.50% for distribution business for all assets to be commissioned on and from 01.04.2023. To protect the interest of investors as well as to ensure regulatory certainty, it is proposed that, ROE for assets already declared commissioned prior to 01.04.2023 shall remain unchanged at the existing rates.

4. Treatment of Working Capital:

The working capital base is arrived at considering the cash flow requirement by the utilities to run its business of generation, transmission and distribution. The existing formula for determining working capital requirement as per WBERC regulations has become obsolete and significantly differs from the methodology adopted by CERC and other SERCs.

The Commission, through this draft 4th Amendment, proposes to consider Working Capital base requirement for generation and transmission business in line with formula adopted by CERC. For distribution business, working capital requirement for maintenance spare of its network business is considered at same percentage to that of transmission network. Further, distribution licensee shall utilise the amount of cash security deposit available with them to meet its working capital requirement before availing of loan from any financial institution. Keeping in view the average interest rates of short-term loan taken by the entities during the year 2021-22, a margin of 250 basis point is proposed over and above the SBI MCLR on the working capital loan. During truing up, the Working Capital base will be recomputed considering the actual parameters applying the same normative formula.

5. Allowance of Operation & Maintenance expenses on normative basis:

The exiting WBERC Tariff Regulations specify the O&M norms for generating stations only. Such O&M norms do not include employee cost, rates & taxes, rents, coal & ash handling charges, water charges, etc. No norm is specified for transmission and distribution business. The Commission has to analyse each and every head of expenditure to determine tariff of each licensee. This definitely is a tedious and time consuming exercise. In this connection it is worth mentioning that CERC has specified O&M norms for generating stations and transmission licensees, which include all elements like employee cost, insurance, coal & ash handling, etc. Forum of Regulators in its Model Regulations for distribution tariff has also proposed R&M norms for distribution business based on GFA and A&G norms based on past expenses. Many of the SERCs have adopted the same principles.

The Commission observes that norms-based tariff determination endures simplicity in approach and increases regulatory certainty as well as transparency in the tariff determination process. Further, determination of expense under individual O&M sub-heads on each utility causes loss of flexibility in adjusting the variation among the elements of the sub-heads. Overall O&M norms give much greater degree of freedom to the utility to take its business decision regarding innovation, outsourcing, automation, etc.

Accordingly, the Commission through this draft 4th Amendment proposes to specify O&M norms for generating stations, transmission system and distribution system. However, for the time being, the employee cost has been kept outside the scope of integrated O&M norms keeping in view different orders passed by the Commission regarding treatment of employees for decommissioned units, etc. Water charge for generating stations and statutory charges payable by all utilities are proposed to be allowed separately.

To arrive at the norms of O&M for 8th control period, the admitted expenses under each sub-head in the previous years are considered keeping in mind the inflation impacts as well as growth in business volume. For O&M expense of generators, the installed capacity is considered to be the business volume indicator. For O&M of transmission business, line length and number of bays are considered to be business volume indicator in line with approach adopted by CERC. For distribution business, norms for repair & maintenance (R&M) expense is linked with the value of Gross Fixed Asset (GFA) in line with the model

regulation of FOR. For assets not covered under GFA, where OPEX model has been considered, such expenses are proposed to be allowed separately, subject to approval. To capture the impact of inflation, hybrid inflation rate with 60% WPI and 40% CPI is to be considered.

The methodology for arriving at the O&M norms are detailed in Annexure-A.

6. Updating the loss trajectories:

In terms of the Electricity Act 2003 and the Tariff Policy, the Commission has to promote efficiency in the sector. Accordingly, loss trajectories were set in the Tariff Regulations 2011 for the years 2011-12, 2012-13 and 2013-14. The norms for distribution and transmission loss set for the year 2013-14 were continued in subsequent amendments. It is felt necessary to update the loss trajectory considering the actual performance of the licensees during the past years and the target set for similarly placed licensees across the country. Thus, the Commission, through the draft 4th Amendment, proposes an updated loss trajectory for the 8th control period.

7. Redefining Controllable and Uncontrollable Factors and sharing of gains and losses:

In the MYT regime, once the ARR is set by the Commission, it is the responsibility of the licensee and generating company to maintain its operations and expenses within the norms /admitted amount, unless affected by some external factors which are beyond the control of the licensees and generators. The existing lists of controllable and uncontrollable items specified in the Tariff Regulations are too exhaustive and sometime dilutes the concept of MYT. With amendment of O&M norms, it is felt necessary to modify the list of controllable and uncontrollable items, keeping in parity with the proposed amendment.

In the process of redefining the controllable and uncontrollable factors, variations due to Force Majeure, change in law, fuel cost, sales variations, etc are considered as uncontrollable. The variations on account of O&M expenses, operating parameters of generating company, distribution and transmission loss, etc are considered under controllable head.

Any variation under uncontrollable heads are passed through in the tariff subject to prudence check. Ideally, any upward and downward variations in controllable heads resulting in loss or gain should be with the licensee or generating company. However, Forum of Regulators in its Model Regulations has proposed to share a part of gain and loss

with the consumers / beneficiary(ies). This process will address the external impact, if any, of the controllable parameters. Many SERCs have already adopted such principle of gain/loss sharing. The Commission feels that the primary responsibility of maintaining the controllable items within norms is with licensee and generating stations. Hence, they have to share the major impact of loss or gain due to variations under the controllable heads. Thus, the Commission through the draft 4th Amendment proposes sharing of 1/3rd loss or gain with the beneficiary on controllable items.

8. Carrying cost on Regulatory Asset:

In the existing Tariff Regulations, there is no provision for carrying cost on Regulatory Asset. However, there is provision of temporary financial accommodation. The Commission, through the draft 4th Amendment, proposes introduction of carrying cost on Regulatory Assets in line with the Tariff Policy 2016. Such carrying cost is proposed at SBI MCLR rate applicable for one-year period as on 1st April of the relevant years in the draft.

9. Capacity charge and incentive for Thermal Plants:

CERC, in its Tariff Regulations 2019, has specified the methodology for recovery of capacity charge of thermal generating station under two segments of the year, i.e. High Demand Season and Low Demand Season. Within each season, capacity charge for peak hours and capacity charge for off peak hours are separately computed. WBSEDCL vide petition in Case No. OA-352/ 20-21 had requested for adoption of similar provisions in the WBERC Tariff Regulations.

The basic objective for the computation of capacity charge separately for peak season and off-peak season and within each season, during peak period and off-peak period for each generating station ensures availability of power from that generating station as per the requirement of the beneficiaries of concerned generating station. The Commission, through the draft 4th Amendment, proposes same formula for capacity charge recovery of intra-state generating stations.

There are some incentive formulae in schedule -10 for thermal generating stations for improved evening peak generation. These have become redundant as the proposed capacity charge formula will ensure peak period generation availability. Similarly, any gain out of improved performance of operating parameters is already shared in terms of

gain sharing formula as proposed in paragraph 7 above. Hence, no separate formula for incentive is required for operating parameters. Any generation above normative PAF is available at marginal cost. Hence, in the draft 4th Amendment, it is proposed to allow incentive to generating stations when its PLF becomes more than target of 85%.

10. Input price of coal from integrated mine (s) allocated to generating company / licensee:

Integrated coal mines have been allocated to some of the generating stations of the State. It is required to determine the input price of coal from such allocated mines for determining the fuel cost of respective generating stations. CERC has specified a methodology to compute the input cost of coal from allocated mines. To maintain uniformity, in the draft 4th Amendment, it is proposed to consider same principles and methodology to compute input price of coal from the mines allocated to the generating stations in the same.

11. Besides above issue, it is proposed that input price of coal from allocated mine will be determined as per formula notified by CERC. The definition of PLF has been proposed to be amended in line with CERC. Modalities for decapitalised assets, replaced assets, etc are also specified in the draft 4th Amendment. Relevant data formats are also modified.

3. Adherence to procedure of Previous publication:

The Commission in exercise of its power under sub-section (1) and (2) of section 181 read with section 61 and in compliance with the requirement of previous publication under section 181(3) of the Electricity Act, 2003, published the draft West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Fourth Amendment) Regulations, 2023 (hereinafter referred as the “Draft 4th Amendment”) on its website and invited suggestions/objections/comments vide public notice No WBERC/ Regulations -73/22-23/3380 published in the newspapers on 24.01.2023. The Commission extended the date of submission of suggestions/objections/comments up to 17.02.2023.

Commission received suggestions/objections/comments from the following stakeholders:

SI No	Name
1	West Bengal State Electricity Distribution Company Limited (WBSEDCL)
2	West Bengal Power Development Company Limited (WBPDCCL)
3	West Bengal State Electricity Transmission Company Limited (WBSETCL)

4	State Load Despatch Center, West Bengal (SLDC)
5	The Durgapur Projects Limited (DPL)
6	Damodar Valley Corporation (DVC)
7	CESC Limited (CESC)
8	Haldia Energy Limited (HEL)
9	India Power Corporation Limited (IPCL)
10	Hiranmaye Energy Limited (HMEL)
11	Forum of Scientists, Engineers & Technologists (FOSET)
12	Ganatantrik Nagarik Samity, Howrah (GNS)
13	SRG Earth Resource (P) Ltd. (SRG Earth)
14	Electrosteel Castings Limited
15	Fourth Partner Energy Pvt. Ltd.
16	Nimbus Irrigation Pvt. Ltd.
17	R&D Solar Enterprise
18	SARN Solar Solution Pvt. Ltd.
19	Super Smelters Ltd.
20	Hindalco Industries Ltd. -Belur Works.

The Commission, after detailed analysis and due consideration of various issues raised by the stakeholders finalised the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Fourth Amendment) Regulations, 2023 and notified the same in the Kolkata Gazette Extraordinary vide Notification No. 76/WBERC dated 13.03.2023. The notified regulations have been referred to as “Final 4th Amendment” in this statement of reasons. The suggestions/objections/comments received from the various stakeholders and the decisions of the Commission thereon have been discussed in the succeeding paragraphs.

4. General Comments received from the stakeholders

The Commission observed that some of the stakeholders have suggested to incorporate the issues related to monthly fuel surcharge formula, tariff for renewable energy based on central pooling, storage system, guideline for resource adequacy planning, etc as specified in the Electricity (Amendment) Rules 2022. Stakeholders have also highlighted the necessity of specifying norms for installation of equipment to limit emission of oxides of Sulphur and Nitrogen by thermal generating stations. Some stakeholders proposed to introduce KVAH billing instead of kWH billing procedure. It has also been suggested to consider the provisions of the Electricity (Promoting Renewable Energy Through Green Energy Open Access), 2022, the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 and the Central Electricity Authority

(Flexible Operation of Coal based Thermal Power Generating Units) Regulations, 2023. Besides these some other issues related to Renewable Energy regulations are also pointed out by some stakeholders.

Analysis:

The Commission has noted all the above comments received from the stakeholders. However, the Commission is of the view that the above comments are not related to the issues of the proposed Draft 4th Amendment of the Tariff Regulations. The objective and scope of the present draft amendment by the Commission has been discussed in paragraph 2 above. It is also pertinent to mention that the Commission is aware of the Rules and Regulations notified by the Central Government, State Government and Statutory Bodies and is of the opinion that such issues will be taken up suitably through future amendments. Therefore, the above suggestions, though important, are not considered by the Commission at present.

Some stakeholders have proposed to publish a comprehensive Tariff Regulations considering all the amendment. The suggestion has been noted by the Commission.

5. Analysis of suggestion and objections on amendments proposed in the draft:

5.1. Definitions:

5.1.1. Plant load factor (PLF):

To align the PLF definition with that of CERC, the proposed draft 4th Amendment under clause (lxxix) of regulation 1.2.1, Plant Load factor (PLF) of a thermal generating station has been defined as total sent-out energy corresponding to scheduled generation during the period, expressed as a percentage sent-out energy corresponding to installed capacity and expressed with the following formula:

$$PLF = 10000 \times \frac{\sum_{i=1}^N SG_i}{N \times IC \times (100 - AUX_n)} \%$$

Where,

- IC = Installed Capacity of the generating station or unit in MW,
- SG_i = Scheduled Generation in MW for the ith time block of the period,
- N = Number of time blocks during the period, and
- AUX_n = Normative Auxiliary Energy Consumption as a percentage of gross energy generation;

(a) WBPDCCL suggested to clarify whether auxiliary power has been reduced from total sent-out specified in the formula of PLF. It is further submitted that, if the total sent-

out energy is deemed as the same as scheduled generation, same is not correct to compute PLF.

Views of the Commission:

The Commission finds it suitable to clarify that, in the ABT regime, all energy supplied to beneficiary by a generating station are scheduled by SLDC for each 15-minute time-block in terms of ex-bus energy. Hence, the scheduled generation specified in the formula of PLF is sent-out energy, which excludes the auxiliary consumption. For energy bills and incentive purpose such scheduled energy is considered. Any variation of actual injection in relation to the scheduled quantum is taken care of through Deviation Settlement Mechanism. Accordingly, for the purpose of this Tariff Regulations, PLF based on scheduled quantum needs to be considered.

- (b) CESC and HEL have proposed to consider the contracted capacity in place of installed capacity as specified in the PFL and PAFM or PAFY formulas, in view of the fact that some generator may have tie-up a part of its generating capacity with the long-term beneficiary. It is also suggested to consider normative auxiliary energy consumption on account of Emission Control System (ECS) in the denominator of the formula of PLF.

Views of the Commission:

The Commission finds merit in the submission of CESC and HEL and decides that, if a generating company has contracted a part of its installed capacity with the beneficiary, then for capacity charge recovery and incentive purpose, PAF and PLF will be computed based on such contracted capacity. Accordingly, a proviso is added in the final Regulations. However, regarding suggestion of considering norms for Emission Control system, the Commission decides to notify the norms separately, as mentioned in paragraph 4 above.

5.1.2. Useful life:

CESSC and HEL have proposed to modify the definition of useful life proposed in the draft amendment in line with the component wise life specified in Annexure-II of the proposed 4th Amendment.

Views of the Commission:

The suggestion is accepted and the definition is modified accordingly.

5.2. Controllable and Uncontrollable factors:

5.2.1. The basic objective for redefining controllable and uncontrollable is to ensure that the generating stations and licensees have to maintain their operations and expenses within the norms /admitted amount in the tariff orders, unless affected by some external factors which are beyond control of the licensee and generators. The issue has already been elaborated in paragraph 2(7) above.

5.2.2. From the suggestions/ objections / comments received from the stakeholders, it is observed that, they have proposed to incorporate various fixed cost elements under uncontrollable head as below:

Items	Views of the Commission
Rates & taxes	Taxes, duties and statutory levies are already considered as uncontrollable in terms of clause (c) of regulation 2.5.5.1 of the draft 4 th Amendment. However, any goods & service tax related to O&M expenses are to be considered under such O&M head.
Insurance premium	Insurance is included in O&M norms and has been detailed in subsequent paragraph.
Transmission charge related to power purchase	The proposal is considered
SLDC charge	The proposal is considered
DSM charge	DSM charge will be considered during truing up as per the provisions of the existing tariff regulation.
VARH charges	VARH charge is essentially controllable in nature. This will be considered during truing up, subject to prudence.
Variations in quality of coal	Variation of GCV is allowed upto 120 kCal/ kg from the 'as received GCV'. Any further degradation of GCV needs to be controlled by the Generating Company.
Variation in transportation and handling charges for coal	The rail and ocean freight for coal transportation is considered as uncontrollable. However, variations due to road transport, inland handling charges, etc shall be considered subject to prudence check.

Coal & ash handling expenses	Included in O&M norms.
Outsourced manpower cost	Outsourced manpower engaged in regular establishment shall be considered as employee cost as per the Principal Regulations limited to overall man/MW ratio for generating station and man/ ckm for transmission. Any outsourced manpower cost other than above are considered under normative O&M.
Variation in working capital interest rates	The working capital is to be maintained within the normative value as per the formula specified in the Amendment Regulations. Any variation of actual interest paid and the interest arising out of normative working capital requirement, will be shared as per the gain / loss sharing formula.
Variation in financing charge and FERV	Finance charge and FERV related to loan capital will be allowed during truing up, subject to prudence check
Vehicle cost & security expenses	Vehicle cost & security expenses are considered under normative O&M expenses.

5.2.3. WBPDC, CESC and HEL has further proposed to define / elaborate the terms “Force Majeure” and “Change in Law”. To maintain parity with the practice across the power sector, the Commission decides that the terms “Force Majeure” and “Change in law” shall have the same meaning as defined under the CERC Tariff Regulations, 2019. The 4th Amendment is modified accordingly.

5.3. Mechanism for gain/ loss sharing

5.3.1. IPCL and HDEL suggested that in case of sharing of gains or losses on account of controllable parameters, the corresponding additional investment undertaken and/ or cost incurred for improvement in controllable parameters, specific to areas where the cost is provided on normative basis for some specific investment for a controllable factor should be considered and the gain amount should be reduced by such costs for the purpose of computation of overall gain.

Views of the Commission:

Any capital investment made for improvement of operational parameter is served through tariff in terms of interest on loan, depreciation and return on equity as per the extant

regulations. Therefore, the proposal for netting of the investment from the gain is not considered.

- 5.3.2. HEL, FOSET and SRG Earth have suggested to continue with the principles of sharing of efficiency related gains as per the provisions of the existing Tariff Regulations.

Views of the Commission:

In the existing tariff regulations, efficiency gains for each operating parameter were specified separately. For the sake of simplification and uniformity, the gain sharing formula has been modified in the draft regulation as elaborated in paragraph 2(7) above.

5.4. Return on equity

- 5.4.1. WBPDC, CESC, HEL, IPCL, HMEL, FOSET, SRG Earth suggested that the Return on Equity at 14% for assets commissioning on or from 01.04.2023 is very low and should be considered at existing or higher level considering the risk in Thermal Projects in line with CERC. CESC suggested that the ROE for distribution business should be at least 20% due to increased risk perception. On the contrary, WBSEDCL suggested to reduce the return from 15.5% to 14% for Generation and Transmission and 16.50% to 15.5% for Distribution Licensees for all assets from the date of effect of the regulation irrespective of date of commissioning of the asset for simplification of tariff application and determination.

Views of the Commission:

The rationale for revised rate of return proposed in the draft regulation has already been elaborated in paragraph 2(3) above. The Commission had ensured minimum impact on the investors as well as consumers for smooth transition to the revised ROE regime by specifying a cut-off date starting from 01.04.2023. However, considering the suggestions / objections, the Commission decides to allow a time period of one year and implement the new rate from 01.04.2024. The regulation is accordingly modified. The proposed rate is the ceiling one and any licensee or generating station may claim reduced rate of return.

5.5. Depreciation:

- 5.5.1. WBSEDCL has suggested that the depreciation of the asset operating for a part of the year is to be computed based on pro rata basis from the COD instead of average of opening and closing value of assets as proposed in the draft. WBSEDCL also suggested for a suitable format for submission of summarized reports of Asset Register along with Auditors Certificate since the Asset Register of WBSEDCL is voluminous in nature.

Views of the Commission:

The suggestion of WBSEDCL is considered. The regulation is accordingly modified.

- 5.5.2. WBPDCCL has suggested that the depreciation may be considered on historical cost in place of proposed 'approved cost' along with cost of IDC as per Indian Accounting Standard. WBPDCCL also suggested that some assets reaches 70% depreciation at 13.25 years, hence it is better to consider the rate of 5.28% for 13 years.

Views of the Commission:

As per the principal Tariff Regulations, where generation tariff is to be determined under section 62, the generating station needs to obtain investment approval in two stages. After completion of the project, final project cost needs to be got approved from the Commission. Any cost / part of expenditure, which is not approved by the Commission, shall not be serviced through tariff. Depreciation in the tariff mechanism is allowed to serve the loan repayment. Hence it is rational to allow depreciation for the approved value of the asset / project.

Further, it is clarified that, if cumulative depreciation of any asset reaches 70% in the middle of any financial year (Y), then depreciation shall be computed at the accelerated rate upto 31st March of the year (Y). Thereafter the balance depreciable asst shall be spread over the remaining useful life from year (Y+1).

- 5.5.3. CESC and IPCL has suggested that the depreciation on assets created out of consumer contribution should be allowed.

Views of the Commission:

As already clarified that, depreciation allowed under the tariff is for repayment of the loan principal. Hence, for obvious reason, depreciation is not admissible on assets created out of consumer contribution.

- 5.5.4. HEL has requested to delete the proviso where the depreciation is allowed upto 95% of the capitalized value where the final approval is pending. IPCL and HMEL has suggested that the first proviso to the regulation 5.6.2 which states that the depreciation shall be limited to ceiling investment approval in absence of final project cost shall be modified to the submitted project cost in place of investment approval.

Views of the Commission:

In the draft amendment, where part of the asset is capitalised or final project cost approval is pending, it has been proposed to consider 95% of the capitalized value as reflected in the audited account, limited to a ceiling of investment approval for computation of depreciation. This has been done to balance the interest of consumers and investors. Since the

depreciation will be freshly recomputed based on approved final project cost and will be trued up accordingly, the Commission feels that there is no need modify the present draft.

- 5.5.5. IPCL submitted that, treatment of weighted average Useful Life in case of combination, due to gradual commissioning of Units may not be a very appropriate method as there is a difference in charging of Depreciation based on actual life of the Units. Therefore, Depreciation must be charged based on the actual life of each of the Units and not on weighted average basis. In case of re-assessment of Useful Life, Depreciation should be charged over the balance life of the assets along with the original written down value up to 90% value. It may be clarified that how will the balance be spread over the useful life of the assets which have already depreciated beyond 70%

Views of the Commission:

The draft regulations have mentioned that the depreciation shall be calculated annually, based on straight line method at the rates prescribed in the Annexure – A(I) to these regulations and not on weighted average basis.

First Proviso to regulation 5.6.2. (ii) states that Generating Company or Licensee shall ensure that once the individual asset is depreciated to the extent of 70%, remaining depreciable value as on 31st March of the year closing shall be spread over the balance useful life of the asset including the extended life. This is meant for existing assets on cut off date which includes any asset on Life Extension added to Fixed Assets prior to the cut off date. Regulation has been accordingly modified.

In case of any Life Extension programme taken up with approval of the Commission after the cut off date, depreciation on the additional capex incurred and duly capitalised will be charged uniformly over the balance useful life of such assets as extended. Depreciation on the original asset prior to Life Extension will be charged following depreciation mechanism as laid down in the Annexure A-1 to this Regulation.

In case of assets which have already been depreciated beyond 70% .the balance depreciable amount left ,if any, as on 31st March, 2022 will be spread over the balance useful life uniformly.

- 5.5.6. DPL requested for clarification regarding computation of depreciation on written down value of asset after applicability of the regulation, whether the onward depreciation will be allowed on the WDV arrived after adjusting AAD as per earlier regulations. DPL has mentioned about a mismatch of rates of depreciation as per Annexure -A(I) in regards to

useful life of asset as per Annexure-A-(II) and has furnished a rate considering straight line method.

Views of the Commission:

The Commission has already stated in draft regulation 5.6.2.(ii) that, total depreciable value will be considered based on cumulative depreciation and AAD allowed by the Commission. The draft Regulations proposed an accelerated rate upto 70% of the Asset value considering normative 70:30 ratio of debt: equity, to ensure a smooth debt servicing which is reasonable.

- 5.5.7. WBPDCCL sought clarification whether fixed Assets include property, plant and equipment along with intangible property, and what will be the useful life of plant and machinery commissioned on 2nd, 3rd or 4th Year etc of COD of the Generating Station. It is submitted also that, from depreciation point of view incidental assets like office building can not have life more than the main item i.e. Plant & Machinery. WBPDCCL also sought elaboration on treatment of depreciation in case of addition to fixed asset on account of overhauling, renovation and maintenance cost, in terms of IND-AS 16.

Views of the Commission:

Depreciation is allowed on Fixed Assets. However, when Fixed Assets include intangible assets such asset is considered for amortisation/write-off for which necessary information are to be provided as per Form 1.18(b).

It is further clarified that, useful life of any element will be as per Annexure A-II from the date of Commissioning of the element.

Generating Company & Licensees should furnish information to the Commission on any adjustment made due to IND AS or any Accounting standards delinking the accounting adjustments duly reconciling with Annual Accounts accordingly. Such expenditure being essentially not of capital in nature, shall not be treated at par with fixed assets. Commission feels that adequate disclosure will give better clarity on the issue and accordingly introduces form 1.17(g) to capture requisite information on such expenditure incurred. Licensees & Generating Companies will have to submit information on such expenditure so booked due to IND AS & any Accounting standards as per Form 1.17(g) of the amended Regulations.

5.6. Interest on loan capital:

- 5.6.1. WBSEDCL suggested that 'Bank Charges' and 'Other Finance Charges' incurred other than obtaining of Capital Loan is required to be included in the Finance Charges head.

WBPDCCL suggested that the charges relating to loan capital and working capital should be allowed in tariff under the head of finance charge. HMEL has proposed to retain the existing clause related to financing charges. CESC and HEL suggested to allow financing charges at tariff determination stage also and requested to modify the said clause.

Views of the Commission:

Bank charges related to day to day business including working capital management are related to A&G expenses and to be booked under O&M expenses as per standard accounting practice. Only finance charge related to loan capital, if any, are to be allowed separately, which includes front end fees, guarantee commission, etc. Accordingly, in the draft, finance charge related to capital loan has been considered. Moreover, considering the suggestions of stakeholder, the Commission in paragraph 5.2.2 above decided to admit finance charge related to loan capital and FERV (Foreign Exchange Rate Variation), if any, during truing-up, subject to prudence check. The regulation is modified accordingly.

- 5.6.2. WBPDCCL suggested to consider actual / or normative loans for all assets which are available for use instead of the assets 'put to use' as proposed in the draft amendment.

Views of the Commission:

The assets under commercial operations are only eligible to be serviced through tariff under tariff regulations. Hence, the proposal of WBSEDCL is not accepted.

- 5.6.3. WBPDCCL sought clarification that, if actual loan repayment period is less than the loan repayment period considered for determination of depreciation in the draft, then how the depreciation will cover loan repayment. WBPDCCL has proposed to consider moratorium and repayment time as per the actual loan agreement.

Views of the Commission:

For ensuring the obligation of meeting the requirement of the loan repayment, accelerated depreciation rate has been proposed considering normative debt amount of 70% of asset value with an average loan repayment period across the country as considered by CERC. The objective under the proposed regulation is to ensure full servicing of the actual and/or normative loan. Utility has to manage its loan profile accordingly. Any positive or negative impact due to variation in loan repayment period has to be necessarily borne by the concerned utility.

- 5.6.4. Some stakeholders have proposed to share the benefit of loan refinancing at 1/3rd with beneficiary in place of 50% proposed in the draft.

Views of the Commission:

The provision of sharing 50% of the benefits out of loan refinancing with the beneficiary is as per existing tariff regulations. The gain / loss sharing of 1/3 is related to gain or loss out of controllable expenses and operating norms only. The Commission decided to cling to the draft.

5.7. Interest on working capital:

- 5.7.1. WBPDCCL suggested that computation of working capital should be based on normative gross generation or targeted generation whichever is lower HEL suggested to that the working capital base should be based on higher of 80% or actual PLF. WBPDCCL further proposed that, during truing up, actual average stock or normative stock whichever is higher should be considered. WBPDCCL also proposed to include receivables equivalent to 60 days in place of 45 days citing clause of PPA. HMEL has suggested to revise the cost of coal towards stock for 15 days for pit-head and non-pit head generating stations for generation corresponding to normative PAF.

Views of the Commission:

The working capital base is computed considering normative PAF in line with CERC Regulations.

- 5.7.2. WBPDCCL has suggested that working capital base should include security charges.

Views of the Commission:

Working capital base includes one month of O&M expenses and the security expense is already considered under of O&M expenses. Hence, no further addition on account of security expense is allowed.

- 5.7.3. SRG Earth has submitted that, similar to any thermal generating station, 45 days receivables should be considered under the working capital base for own generating stations of the licensees and accordingly suggested to drop first proviso of clause (a) and (b) of proposed regulation 5.6.5.1.

Views of the Commission:

The receivables for the embedded generation of a licensee has already been factored in the total receivables of the licensees. Therefore, the receivables of the embedded generation have not been considered separately to avoid double loading.

- 5.7.4. FOSET and SRG Earth suggested to allow interest on working capital on normative basis and drop third proviso of clause (a) proposed regulation 5.6.5.1 related to recomputing the working capital requirement base during truing up.

Views of the Commission:

Working capital is computed on normative basis during tariff determination stage, which includes cost towards maintaining coal stock and advance payment towards coal equivalent to generation considering normative PAF. However, to protect the interest of beneficiary / end-consumer, it is found necessary to relate the working capital requirement with the actual level of stock maintained and coal advance paid.

- 5.7.5. CESC has proposed that the maintenance spares should be considered at 40% of R&M of 1 month instead of 15% of O&M as proposed by FOR and should also include one month's power purchase cost. FOSET suggested to include one twelfth of power purchase proposed/ made in short term market including purchase from exchange is to be included in working capital.

Views of the Commission:

R&M cost is a subset of O&M cost and O&M cost is significantly higher than that of R&M cost. Thus, considering 15% of O&M cost instead of 40% of R&M cost is considered to be reasonable.

The Commission also observed that, DISCOMs mostly rely on long term and medium-term power purchase and the same is paid on monthly basis after consumption. The short-term requirement fluctuates on daily basis and cannot be assessed in advance for the purpose of working capital requirement. Moreover, the power purchase cost of the DISCOMs is already factored in the receivables of the DISCOMs.

- 5.7.6. Regarding the interest rate of working capital, WBPDC, IPCL and HMEL suggested that it should be considered at SBI MCLR + 350 basis points as per the CERC and Suo Motu order of the Commission whereas CESC and HEL have suggested that the rate should be SBI MCLR + 450/ 500 basis points considering the business risk. FOSET suggested to include the rate of MCLR or any replacement thereof by SBI from time to time.

Views of the Commission:

Considering the available data on the working capital loans/ short term loans availed of by the utilities under the purview of the Commission, it is observed that in case of majority of the utilities, there short-term loan is within SBI MCLR+ 250 basis point.

Hence the Commission finds it reasonable to consider the rate of interest on working capital at SBI MCLR + 250 basis points.

- 5.7.7. CESC stated that the treatment of additional security deposit as non-tariff income is not justified as the company pays interest of SD to the consumers. Thus, the excess security deposit held over the working capital base of distribution may be considered as zero.

Views of the Commission:

The Commission allows the interest on consumers security deposit paid to the consumers as a pass-through expense under ARR. Hence, in the draft, it has been proposed to consider interest earned on excess consumer security deposit after meeting the working capital requirement as Non-Tariff Income.

- 5.7.8. HEL has suggested that the impact of installation of emission control system and the cost of reagent are required to be taken into account for computation of working capital.

Views of the Commission:

The emission of control system as per the revised norms are yet to be commissioned by the utilities. The Commission will come up with a regulation covering these aspects in due course of time.

5.8. Consideration of replaced assets:

- 5.8.1. WBSEDCL has suggested that the treatment of replaced asset should be as per the relevant Accounting Standard. WBSEDCL also suggested that the insurance proceeds received towards damage to any asset requiring its replacement shall be separately passed on in Non- Tariff Income.

Views of the Commission:

The Commission considers that the treatment of insurance proceeds given in the draft regulation is logical and should be retained.

- 5.8.2. WBPDCCL pointed out that the proviso of replaced assets in regulation 5.2.7(iii) states that if original cost of replaced asset is not available, the Commission will determine it based on available information and documents is subjective in nature and should be elaborated on the nature of information and documents

Views of the Commission:

The primary responsibility of furnishing the information on original cost of replaced asset along with depreciation to the Commission lies with the utility concerned based on the

Fixed Asset Register if so maintained properly. In absence of furnishing the same, the Commission shall take a call on case to case basis for a reasonable assessment applying prudence at the time of determining tariff based on the petition submitted by the generating company or licensee.

5.9. Consideration for decapitalization of assets:

- 5.9.1. WBSEDCL suggested that the treatment of decapitalization of assets should be as per relevant Accounting Standard. They have also suggested that the loss on decapitalization of asset has not been considered in the draft regulation and the same is needed to be considered as a pass-through item in the ARR.

Views of the Commission:

The Commission allows depreciation, interest on loan and return on equity on the assets capitalized and put to use. Decapitalization can occur due to host of reasons. The Commission based on prudence check shall take decision on case-to-case basis.

- 5.9.2. CESC and HEL suggested that the decapitalization shall not be done for the assets which are replacement in nature unless the Commission approves such replacement of assets. They further stated that in case the replacement of assets, is not approved by the Commission, no adjustment in the gross fixed assets and cumulative depreciation of the assets can be made. If old asset is replaced with new asset deploying own fund, a utility cannot expect any return against such investment unless the Commission approves the same. Thus, depreciation on the new asset capitalized cannot be recovered. In such cases, decapitalisation of the old assets and adjustment of the original value of the same at a time - the impact on the generating company would be two-fold.

Views of the Commission:

Decapitalisation of asset occurs when an asset is no longer useful and is beyond useful repairs which is a consequential event due to operation of multiple factors. Such decapitalisation signifies cessation of certain benefits which was being derived from such asset when it was rendering useful service. Replacement of the decapitalised asset is accordingly a logical consequence of decapitalisation in order to derive the same or enhanced benefits from such replacement as was being received from decapitalised asset when it was useful. There is no denying the fact that such replacement taken up following decapitalisation of an asset is unavoidable. Any asset once decapitalised can not be serviced through tariff.

Such decapitalised asset when substituted with replacement assets would continue to be serviced as per tariff regulations. However, the burden of any imprudent replacement falling short of optimum benefits can not be passed on to the consumers only due to the fact that such replacement was necessary following decapitalisation. Due approval wherever necessary for incurring capital expenditure towards such replacement have to be taken from the Commission as per Tariff Regulations. Commission will examine such investment proposals applying prudence check as per Tariff Regulations. Accordingly prudent replacement of any asset decapitalised on reasonable grounds shall always be recognised based on separate petition seeking investment approval as per tariff regulations. Generating Company or the Licensee will always be able to service return on replacement assets if so taken up in reasonable and prudent manner.

Commission feels that adequate disclosure will give better clarity on the issue and accordingly introduces form 1.18 (d) to capture requisite information on decapitalisation. Licensees & Generating Companies will have to submit information on decapitalised assets as per Form 1.18 (d) of the amended Regulations.

- 5.9.3. CESC and HEL submitted that, deduction of Equity of decapitalized asset, which is merely 30% of the cost of asset is unfair from the view of the Investor. Equity is somewhat permanent in nature and if such adjustment for Equity and Investment is made the investment in power sector may be hampered. CESC & HEL suggested to make necessary changes as per their submissions. CESC & HEL also stated that the proceeds from one-time sale of assets is considered as addition to the equity base in terms of the extant regulations. Following the same philosophy and they have proposed to retain the existing provision.

Views of Commission:

As already stated earlier, decapitalised asset can not be serviced through tariff. Hence equity infused for the same can not be serviced. However, when equity is infused towards replacement of assets, the same will be serviced through tariff as per Tariff Regulations with normative debt: equity ratio of 70:30. Regulation 5.15.1(iv) of the Principal Regulations along with Form 1.20(a) has been accordingly amended. However, any gain out of such proceedings which is covered as internal accruals for equity purpose needs to be adjusted to avoid double entry.

5.10. Operation and Maintenance Expenses:

- 5.10.1. Some of the stakeholders submitted that the inflation considered in the draft is much lower than the existing inflationary trend. They have suggested to consider inflation for the period from April, 2020 to December, 2022 considering the prevailing trend of inflation. WBSEDCL submitted that the O&M norms trajectory for different hydro plants shows YoY percentage increase lower than the HI inflation index used by the Commission for fixing norms/ expenses in recent Tariff Order. IPCL suggested to consider CPI and WPI ratio at 70:30 for the purpose of hybrid inflation.

Views of the Commission:

The Commission has noted the submissions of stakeholders and provided an elaborate explanation in Annexure A to deal with the inflationary impact.

- 5.10.2. Some stakeholders have suggested to consider actual figures expenses of previous years to compute the O&M norms in place of the admitted figures considered by the Commission.

Views of the Commission:

O&M expenses is prima-facie controllable in nature. If actual values of O&M expense are taken into the O&M norms, there is a finite possibility that the inadmissible part of the O&M also gets factored into the O&M norms. Thus, the Commission finds it rational to consider admitted O&M expenses for formulating the O&M norms considering the admitted values. The matter has been detailed in Annexure A.

- 5.10.3. WBPDCCL suggested that the list of expenses like rent, lease charge, legal charge, consultation fees, auditors' fees, insurance fees and others may not always be within the reasonable control of the generator and thus, any additional claim should not be treated as controllable in all circumstances. WBPDCCL also stated that insurance premium should be treated as uncontrollable items and should be allowed based on actuals since insurance premium has shifted from discount-based regime to tariff-based regime with effect from 01.03.2019.

Views of the Commission:

The rationale of considering the scope of normative O&M expense has been elaborated in paragraph 2 (5) above. As insurance is considered as uncontrollable expenses under existing Tariff Regulation, the Commission, in view of the submission of WBPDCCL, decides to consider insurance premium payable proposed in the Tariff Petition for the 7th Control Period for computation of O&M norms. The detailed methodology has been specified in Annexure A.

- 5.10.4. WBPDCCL, IPCL and HMEL submitted that Coal and Ash Handling Charges shall not be part of O&M expenses and should be allowed separately. WBPDCCL has also stated that there will be additional cost in ash disposal for adhering to the notification of MoEF&CC.

Views of the Commission:

The Commission has considered Coal and Ash Handling expenses within the O&M norms corresponding to generation at normative PAF level. Regarding additional cost in ash disposal, the Commission feels that the revenue generated from such disposal shall offset the additional cost of such ash disposal.

- 5.10.5. WBPDCCL also stated that the O&M Cost of SgTPP Stage I is not commensurate with the plants having the same capacity in the state. O&M Cost of SgTPP Stage II is also low.

Views of the Commission:

As detailed in Annexure A, the Commission has determined the norms based on past admitted expenditures with required normalization.

- 5.10.6. WBSETCL stated that there has been an increase in R&M Cost during the FY 2022 – 23 and many substations will be commissioning in coming years to cope up with the growing demand in the State. These substations are all in GIS category and requires higher maintenance expenses. In view of the above, WBSETCL requested to have separate norms for GIS.

Views of the Commission:

The O&M norms are expressed in Rs. Lakh/ KM of Transmission Line length and Rs. Lakh/ Bay. Hence, any increase in number of substations or length of the transmission lines shall be automatically taken care of. Regarding higher cost of GIS substation, WBSETCL has not substantiated their claim with any data.

- 5.10.7. HMEL suggested that O&M charges for dedicated transmission line are required to be allowed separately.

Views of the Commission:

The suggestion is considered by the Commission.

- 5.10.8. CESC has proposed a formula for determining R&M and A&G expenses of distribution licensee considering increase in distribution line length and YoY inflation growth.

CESC further submitted that A&G expenses shall not include Insurance, Rates & Taxes and Security Expenses which are uncontrollable in nature.

Views of the Commission:

The rationale of considering the scope of normative O&M expense has been elaborated in paragraph 2 (5) above.

- 5.10.9. IPCL requested to consider actual cost of audit for FY 2021 – 22 as the base for further projections and also stated that legal and professional charges should be computed based on merit and justification of the case expenses and not by normative values. Further, IPCL submitted that R&M expenses as a percentage of GFA comes to 1.73 for FY 2019 – 20 and the same should be taken into consideration for determination of norms. IPCL also suggested that 100% of fixed asset addition is required to be considered in place of 50% for computation of R&M expenses. Regarding A&G expenses, IPCL stated that escalation of A&G expenses must be considered on the average of the actual expenses incurred during the last 3 years instead of trued up figures of last 5 years. IPCL also submitted to consider Insurance separately.

Views of the Commission:

The rationale of considering the scope of normative O&M expense has been elaborated in paragraph 2 (5) above. However, in the absence of the required trued values for fixation of R&M norms for IPCL, the submission of IPCL has been considered. Regarding asset addition, the Commission observes that the entire asset addition does not occur at the beginning of the year or at the end of the year. Thus, the Commission finds it rational to consider an average of 50% asset addition during any ensuing year as per the accepted statistical practice.

- 5.10.10. WBSEDCL suggested to delete the first proviso of the proposed regulation 5.7.4.2, which requires prior approval from the Commission before planning any expenditure under OPEX mode, which were not considered in the tariff petition.

Views of the Commission:

In the draft under regulation 5.7.4.2, it has been proposed to allow additional expenditure under OPEX model over and above the normative R&M and A&G expenses. For this purpose, licensee has to submit detailed justification and cost benefit analysis for such OPEX expenditure in its tariff petition. Under the first proviso of such regulation, it is specified that, where any OPEX expenditure is planned after issuance of tariff order, licensee shall take approval from the Commission before incurring such

expenditure. WBSEDCL has proposed to delete such provision. The proposal is not accepted.

The issue of inflationary impact has already been clarified under Annexure A.

- 5.10.11. DVC submitted that they have no prior experience in distribution of electricity in 11 kV level and thus there is no data available regarding R&M expenditure. DVC requested to revise the normative ratio in respect of R&M cost after considering the actual figures of DVC in this respect.

Views of the Commission:

The Commission feels that the suggestion of DVC can not be considered at the present stage.

- 5.10.12. FOSET has proposed a formula by including a multiplying factor of 0.01 on Hybrid Inflation (HI Inflation) and suggested that the A&G expenses has to be considered at the actual expenses or at best average of base year and year preceding the base year. SRG Earth and FOSET also stated that by deletion of the provisions of insurance as per the existing regulations will attract non transparency in the working methodology of the utilities.

Views of the Commission:

The rationale for considering the scope of normative O&M expense has been elaborated in paragraph 2 (5) above.

- 5.10.13. HEL suggested that the Commission has notified draft State Grid Code wherein compensation of part load operation has been proposed. Thus, they requested the Commission to finalize the draft Tariff Regulation after finalization of the State Grid Code.

Views of the Commission:

The suggestion has been noted by the Commission.

5.11. Operating norms:

- 5.11.1. HMEL submitted that Man/ MW ratio has been proposed as 1.30 for their unit size of 150 MW whereas Man/MW ratio of 1.55 of Bakreswar (unit size of 210 MW) and 1.35 for SgTPP Stage I (unit size of 300 MW). In view of the this, HMEL proposed to consider Man/MW ratio as 1.55.

Views of the Commission:

The proposal to consider the Man/MW ratio as 1.55 as per the Bakreswar cannot be considered since Bakreswar is a very old plant and such plant cannot be considered for comparison with any new plant. In the Order of the Commission dated 13.09.2018 in Case No. OA – 287/ 18 – 19, the Commission had admitted Man/MW ratio of 1.30 for HMEL in place their claim of 1.35. It is also noted that Schedule 9D of the existing regulations specifies that ceiling Man/ MW ratio for any generating stations of 200 MW and above is 1.30. In view of the fact that the unit size of HMEL is 150 MW, the Commission decides to consider the Man/ MW ratio of 1.35 as claimed HMEL during fixation of initial norms under Case No. OA – 287/ 18 – 19.

- 5.11.2. WBPDC (Sg TPP Stage I) and IPCL (12 MW) have proposed for upward revision of the existing norms of Auxiliary Power Consumption and Station Heat Rate.

Views of the Commission:

The Commission decides to continue with the existing norms.

- 5.11.3. HMEL has proposed to consider their Station Heat Rate at 2502 kCal/kWh in place of 2477.15 kCal/kWh specified in the draft considering limited coal availability.

Views of the Commission:

The Commission does not consider the request since the responsibility of arranging the coal lies with the generator.

- 5.11.4. Transmission and Distribution Loss:

Entity	Submission	Views of the Commission
WBSETCL	They have submitted that in place of steep reduction from 3.40% to 2.70%, losses to be gradually reduced to 3.00%, 2.85% and 2.75% during FY 23 – 24, FY 24 – 25 and FY 25 – 26	From the Annual Accounts of previous years, the Commission has noted that the losses in FY 19 – 20 and FY 20 – 21 were around 2.61%. Loss in FY 21 – 22 has been recorded as 2.23%. Considering the pandemic conditions in FY 21 – 22 and subsequent recovery of the economy, the Commission has proposed Transmission Loss as 2.70% in 8 th Control Period. Further, WBSETCL has not substantiated their claim for higher loss with any real data.

Entity	Submission	Views of the Commission
WBSEDCL	<p>They have submitted that, from 2022, a portion of sale of power has been shifted from consumer mode to licensee mode which significantly impacted the distribution loss of WBSEDCL. It is also submitted that the present level of distribution loss is determined considering 3.40% normative Transmission Loss. If transmission loss is modified, the impact of same should be considered. In view of the same, WBSEDCL proposed to reduce the loss to 17%, 16% and 15% during FY 23 – 24, FY 24 – 25 and FY 25 – 26.</p>	<p>While framing the loss trajectory in the draft regulation as 16.5%, 15% and 14% during the FY 23 – 24, FY 24 – 25 and FY 25 – 26 respectively, the Commission has considered the actual losses of previous years. Now, considering the fact that a significant amount of sale to Railways in consumer mode is shifting to License Mode which will impact the percentage loss of WBSEDCL, the Commission decides to revise the loss trajectory as 16.50%, 15.50% and 14.50%.</p> <p>Transmission Loss is to be determined as per the provisions of the regulations. Impact of any upward or downward transmission loss shall be borne by the transmission licensee as per the gain or loss sharing formula as specified in the amendment regulation.</p>
CESC	<p>They stated that EHV loss for bringing in power from non-load centre based stations/ sources may be permitted since significant quantum of power is procured by CESC from non-load centre based stations. Further, norm for distribution loss is to be annually reduced by not more than 0.1% from the approved loss from the ninth control period only.</p>	<p>While framing the loss trajectory in the draft regulation as 9%, 8.5% and 8% during the FY 23 – 24, FY 24 – 25 and FY 25 – 26 respectively, the Commission has considered the actual losses of previous years as well as the distribution losses admitted by different SERCs in Noida, Delhi and Mumbai.</p> <p>The inter state transmission loss and STU losses will be allowed in terms of this regulations.</p>

Entity	Submission	Views of the Commission
IPCL	They have stated that the distribution loss is required to be escalated to 5.75%, 6.00% and 6.50% during FY 23 – 24, FY 24 – 25 and FY 25 – 26.	While framing the loss trajectory in the draft regulation as 5.00%, 4.50% and 4.00% during the FY 23 – 24, FY 24 – 25 and FY 25 – 26 respectively, the Commission has considered the actual losses of previous years.
DVC	They have submitted that the loss level to be fixed at the level fixed for IPCL.	While framing the loss trajectory in the draft regulation as 2.75% during the FY 23 – 24, FY 24 – 25 and FY 25 – 26 respectively, the Commission has considered the actual composite T&D loss of DVC network of previous years.

5.12. Input price for coal from allocated mines:

- 5.12.1. WBPDCCL sought for clarity on this aspect by stating that the cost which WBPDCCL is incurring for coal extraction will remain unrecovered till the Commission determines the price of coal. This will have impact on working capital. Every year WBPDCCL will have to follow CIL price till the same is determined by the Commission.

Views of the Commission:

In the draft amendment, it has been clearly spelt out that input price of coal will be determined by the Commission following the principles and methodologies specified in CERC Regulation and generating company/ licensee shall file an application not later than 60 days from the date of notification of these regulations or COD of the mine. Till that time, input price will be the notified price of CIL commensurate with the grade of coal from the integrated mines or estimated price available in the investment approval whichever is lower. After, finalization of the input price, any over-recovery and under-recovery will be adjusted. Hence, the issue of input price has been adequately covered under the draft.

5.13. Capacity charge recovery formula for thermal power plants

- 5.13.1. SLDC has sought necessary guidelines for declaration of High/ Low Demand season for the first time i.e., for the year 2023.

Views of the Commission:

SLDC is responsible for grid management and it is the responsibility of SLDC to determine the high/ low demand season in consultation with the distribution licensees of the state. However, for the year 2023 – 24, the high demand season or low demand season as declared by ERLDC shall be followed unless SLDC declares a separate high and low demand season for the year.

- 5.13.2. WBPDCCL stated that separate Capacity Charge for high and low demand season is not relevant to WBPDCCL as it generates as per DISCOMs load management. Further, WBPDCCL cited difficulty in overhauling planning/ rolling plan in case declaration of high/ low demand season is made only 6 months in advance. WBPDCCL also stated that the proviso to sub regulation (ii) of regulation 6.11.4 which specifies that the declaration of peak hours and high demand season is such a way that the same coincides with majority of peak hours and high demand season of region, is not applicable since the generating plants do not supply to any specific region but to DISCOMs. Further, CESC submitted that the declaration of peak and off peak period should be consistent with the normal, peak and off peak period specified in the Tariff Regulations.

Views of the Commission:

The rationale of considering capacity charge recovery separately for high and low demand season has been elaborated in paragraph 2(9) above.

5.14. Incentive to thermal power plant

- 5.14.1. WBPDCCL stated that in place of 85% target PLF for incentive, relaxed criteria should be allowed for old plants like Kolaghat TPS and Bandel TPS for incentive purpose as has been given by CERC for old plants.

Views of the Commission:

The proposal of WBPDCCL is considered.

- 5.14.2. CESC and HEL have submitted that the incentive for generation for a thermal generating station is to be calculated based on ex-bus scheduled energy corresponding to the Target PLF. Such Target PLF should be considered as 85% for the purpose of computation of incentive. The level for normative despatch i.e., normative PLF is fixed at a level lower than above normative PLF at 85%. They requested to continue with the existing provision of the Principal Tariff Regulations in order to promote and encourage the generating stations to operate at efficient level and lowering the incentive for a generating station will greatly enhance the risk perception of a generator. FOSET also suggested that to continue with the existing provision of regulations 6.14.1 to 6.4.4 of the tariff Regulations regarding incentive to generating stations.

Views of the Commission:

The rationale has been elaborated in paragraph 2(9) above.

5.15. Late payment surcharge

- 5.15.1. HMEL proposed to revise the rate of LPSC at 1.50% in line with CERC Tariff Regulations.

Views of the Commission:

The Commission decides to continue with the existing rate of 1.25%.

5.16. Carrying Cost

- 5.16.1. Some stakeholders proposed to consider additional basis points of 350, 400, 450, 500 over SBI MCLR proposed in the draft.

Views of the Commission:

Considering the suggestions received from the stakeholders and analysing the practice among different SERCs, the Commission decides to consider the carrying cost at the same rate considered for Normative Working Capital Interest i.e., 1-year SBI MCLR + 250 basis points.

- 5.16.2. Some stakeholders submitted that carrying cost will be approved on the entire outstanding Revenue Gap/Revenue surplus of the Licensee. (i.e., from the end of the year for which true-up has been done and revenue gap/surplus has been settled, till the end of the year in which it is addressed).

Views of the Commission:

The suggestion is considered.

5.17. Consumer category

- 5.17.1. WBSEDCL proposed to consider separate category for EV Charging Station and MES for all voltage level. WBSEDCL has also proposed to revise the existing consumer category specified in Annexure C1 of the Tariff Regulation in line with the segregations provided in their Tariff Order. WBSEDCL also proposed to redefine 'Public Utility' and 'Short Term Supply' specified under note to Annexure C1. WBSEDCL proposed to allow domestic tariff for electricity used in residential purpose and all type of religious place supplied at single point. It is also proposed to allow prepaid and prepaid TOD as an optional Tariff Scheme for all category of consumers under L&MV.

Views of the Commission:

Separate category for EV Charging Station and MES has already been specified for HV level. The Commission decides to specify separate category for L&MV also. The consumer category specified in Annexure C1 is generic in nature and applicable for all distribution licensees. The Commission determines tariff for different consumer categories in Tariff Order of respective licensees based on their petition. The proposal of redefining 'Public Utility' and 'Short Term Supply' and allowing domestic tariff for residential purpose and religious places supplied at single point is considered. Further the proposal of optional tariff under prepaid and prepaid-TOD mode for all L&MV consumers is also considered.

5.18. Miscellaneous

- 5.18.1. FOSET submitted that by deletion of provision of regulation 6.15 of the existing Tariff Regulations, will make the new upcoming State Generators to synchronize the machine without availability of all necessary equipments.

Views of the Commission:

The Commission has already specified the requirements for synchronization of State generating stations under the draft State Grid Code. However, till the State Grid Code is notified it is found prudent to retain the existing regulation 6.15. The 4th Amendment is accordingly modified.

- 5.18.2. Some stakeholders have proposed that the existing provision of not allowing TOD facility to consumers to availing net metering facility needs to be reviewed for promotion of renewables in the state. WBSEDCL has also proposed to delete the clause (xix) of note to Annexure C2 related to not allowing TOD facilities to net metered consumers.

Views of the Commission:

The suggestion is considered.

- 5.18.3. WBSEDCL proposed to modify the formula of computing contract demand specified under regulation 4.15 of the existing Tariff Regulation by considering impact of load factor in the denominator.

Views of the Commission:

The proposal is found to be logical and thus considered.

- 5.18.4. WBSEDCL suggested to specify number of days in place of date, in the notice of gist publication and proposed to amend paragraph 3 and 5 of Annexure-7 related to gist publication.

Views of the Commission:

The proposal is considered.

- 5.18.5. WBSEDCL proposed to modify the definition of projected power purchase cost in the MVCA formula provided in Schedule-7B of the Tariff Regulations.

Views of the Commission:

As already elaborated in paragraph 4 above, the Commission shall review these issues in subsequent amendment.

Sd/-
(PULAK KUMAR TEWARI)
MEMBER

Sd/-
(MALLELA VENKATESWARA RAO)
CHAIRPERSON

Dated: 13.03.2023

Annexure – A

Methodology determining the Norms for Operation & Maintenance Expenses

The Commission determines the O&M norms keeping in view the already admitted O&M expenses in the Tariff Orders and APR Orders of the past periods and an estimation of inflation impact considering the trends of inflation based on previous years data published by different statutory bodies of Government of India.

1. Inflation impact:

As the O&M expenses includes cost of material and labour, a hybrid inflation index with 60 % of WPI and 40% of CPI has been considered. While analysing the past inflation trends, some distortion in trend have been noticed during 2020-21 and 2021-22 probably due to impact of COVID pandemic. In the draft 4th Amendment, 5 years inflation rates, excluding FY 2021-22 were considered. However, some stakeholders in their comments have proposed to consider the inflation rates for 2021-22 and 2022-23 (upto December). The Commission notes that yearly WPI and CPI for 2022-23 are yet to be notified, but gradual decreasing rates of month-wise WPI in 2022-23 indicates that, the market is gradually moving towards normality.

In view of the above, for the purpose of projecting inflation trend, the Commission decides to consider a broader time-frame to smoothen out the impact of variations. Accordingly, average inflation is considered since 2014-15, the year from when the Commission started to consider hybrid inflation formula in its tariff order.

Year →	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	Average
WPI all commodities	1.24%	3.69%	1.73%	2.96%	4.26%	1.67%	1.31%	12.97%	2.81%
CPI industrial workers	6.30%	5.60%	4.10%	3.10%	5.40%	7.50%	5.00%	5.10%	5.26%
Hybrid inflation	3.26%	0.03%	2.68%	3.02%	4.72%	4.00%	2.79%	9.82%	3.79%

To capture the impact of inflation over the admitted O&M expenses during the past period, the O&M expense of a particular year is brought to the base year value by applying hybrid inflation index of respective years (present value method). Once O&M expense of all the previous years are normalised into base year value, average O&M expense of base year is derived. For subsequent years average inflation rates are considered to arrive at projected O&M expense of respective year. Following table shows an illustration:

	Past approved figures					Normalized	Projections		
Year	Y1	Y2	Y3	Y4	Y5	at Y5	Y6	Y7	Y8
Admitted Expense Y1	E1	E1'	E1''	E1'''	E1''''	E1''''			

Admitted Expense Y2		E2	E2'	E2''	E2'''	E2''''			
Admitted Expense Y3			E3	E3'	E3''	E3'''			
Admitted Expense Y4				E4	E4'	E4''			
Admitted Expense Y5					E5	E5			
Normalized Average Expense at Y5						E = Average (E1'''' : E5)			
Projected values							E6	E7	E8

Where, $E1' = E1 \times (1 + \text{hybrid inflation of year Y1})$; $E1'' = E1'(1 + \text{hybrid inflation of year Y2})$ and so on. After arriving at normalized average expense (E), the figures for Y6, Y7 and Y8 are projected considering average hybrid inflation index.

2. O&M norms for Generating Stations:

The existing Tariff Regulation specifies norms for O&M expense for generating stations expressed as Rs. lakh /MW of installed capacity. Besides such normative expenses, expenses towards employee cost, rents, rates & taxes, insurance and coal & ash handling charges are separately allowed. As explained in paragraph 2(5) of the SOR, the Commission decides to specify a composite O&M norm which also includes expenses on account of rents, insurance and coal & ash handling charges. Employee cost shall continue to be treated separately as uncontrollable item. Further, water charges and statutory charges including municipal taxes, duties etc will be allowed separately.

Major components of O&M expenses are already covered under the norms specified in the existing tariff regulation. The expense so arrived at using the norm is controllable in nature and is considered as the ceiling amount admissible during the truing-up process in APR. So there are hardly any scope to upward revision of admissible O&M expenses. Hence, the normative O&M expenses admitted in the past periods from 2017-18 to 2022-23 are considered as past period expenses. However, where the actual expenses admitted during a particular year for a generating station was significantly low due to non availability of any plant / unit, the expense is considered at normative admissible value for that year for the purpose of fixation of norms.

In terms of existing Tariff Regulations, coal & ash handling expenses are admitted based on the gross generation of the plant. Now, in order to fix the coal & ash handling expenses into the overall O&M norms, an impact of normative PAF / PLF is considered. Insurance is being treated as uncontrollable element in the existing Tariff Regulations. Hence, before fixing the norms, the actual insurance claimed is considered upto 2022-23, where APR order is yet to be issued. For hydro generating stations of WBSedCL, the goods & service tax related to O&M, insurance expense, etc are submitted under centrally maintained expenses, which are prorated among the generating stations based on their installed capacity.

With the above considerations, admissible O&M expenses for past periods are determined. Then normalised average expenses are computed at 2022-23 following the principles stated above. Norms for 2023-24, 2024-25 and 2025-26 are determined by applying the average hybrid index of 3.79%.

3. O&M norms for Transmission system:

There are no norms in the existing Tariff Regulations for O&M expenses related to Transmission system. The Commission used to analyse the expenses for each sub-head based on past approved figure vis-a-vis growth in transmission line length and hybrid inflation. It is now decided to derive the O&M norms for transmission system based on past approved values. Employee cost, statutory charges including municipal tax, duties, etc are to be allowed separately. O&M norms for transmission system shall comprise of the followings:

O&M norms for transmission line = Rs. Lakh /km of line, for different conductor configuration;

O&M norms for sub-station = Rs. Lakh /bay, for different voltage level.

As there is no norm in existing Tariff Regulations for transmission O&M and WBSETCL is the lone transmission licensee in the State, the Commission decides to consider the O&M expense approved in APR order for the years 2015-16 to 2019-20 of WBSETCL to arrive at the new norms. Following the principles stated above, average normalized figure for 2019-20 is derived.

Analysing the past expenses, it is noted that average ratio of O&M expenses between line and sub-station comes to 15:85, where expenses towards office and establishment maintenance are considered under sub-station head. Hence the normalized average O&M expense is shared into sub-station and transmission line in the same ratio of 85:15. In absence of bay maintenance cost at different voltage level and line maintenance cost for different conductor configuration, it is found rational to consider the inter-voltage relationship (index) specified in CERC regulation. This will maintain a parity among norms and promote efficiency.

Now considering the number of bays and transmission line length of WBSETCL in the year 2019-20 at different voltage level and different configurations, the O&M norms in Rs. Lakh/bay and Rs Lakh/km of line length is derived. Then norms for base year i.e. 2022-23 is derived by applying rolling average inflation concept (i.e average upto the corresponding year). Finally, O&M norms of 2023-24, 2024-25 and 2025-26 are derived by applying average hybrid inflation rate of 3.79%.

However, for dedicated transmission lines, it is proposed to determine composite O&M expense for line and sub-station during the tariff order based on approved trued up value in previous APR orders of the Commission.

4. Distribution system:

There are no norms in the existing Tariff Regulations for O&M expenses related to distribution system. The Commission used to analyse the sub-head-wise expenses based on past approved figure vis-a-vis growth in distribution line length, consumer growth and hybrid inflation. It is

decided to derive O&M norms for distribution business based on past approved values. Employee cost, statutory charges including municipal tax, duties, etc are to be allowed separately. O&M norms for distribution system will now comprise of the followings::

Repair & Maintenance Expenses (R&M) = a percentage of GFA;

Administrative & General Expenses (A&G) = $A\&G_b \times (1 + \text{Hybrid Inflation}) + \text{Provision}$;

Admissible A&G expenses for the ensuing years have been determined by the Commission based on past admitted values and on due consideration of impact of inflation during the time of tariff fixation. However, the normative percentage of GFA to arrive at R&M expense is specified in the 4th Amendment.

As there is no norm in existing Tariff Regulations for R&M expense of distribution system, the Commission decides to consider the R&M expense admitted in the previous years. It is observed that the status of true-up year varies from licensee to licensee. Tariff Order for IPCL has been issued upto 2019-20. Hence for all practical reasons, the Commission decides to consider the figures admitted for 5 years starting from 2015-16 to 2019-20.

For the purpose of fixing norms of R&M, all outsourcing expenses related to R&M activities and goods & service tax as applicable therein on proportionate basis if not specifically mentioned are considered. Now admissible R&M in percentage of Gross Fixed Asset (GFA) for the years 2015-16 to 2019-20 is computed. Accordingly, average percentage at 2019-20 is derived. It is noted that yearly increase in GFA is marginal, varies from 5% to 10%. Thus, the Commission finds it reasonable to project R&M expense for subsequent years by applying hybrid inflation rate. Normative percentage for base year i.e. 2022-23 is derived by applying rolling average inflation concept (i.e average upto the corresponding year). Finally, R&M norms as percentage of GFA for 2023-24, 2024-25 and 2025-26 is derived by applying average hybrid inflation rate of 3.79%.