



**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**

**EXPLANATORY MEMORANDUM**

**ON**

**DRAFT MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
(MULTI YEAR TARIFF) REGULATIONS, 2019 (SECOND AMENDMENT)**

**October, 2022**

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# 1 Introduction

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## 1.1 Background & Regulatory Framework

As per Section 86 (1) (a) of the Electricity Act, 2003 (“EA 2003” or “the Act”), the State Electricity Regulatory Commissions (SERCs or Commissions) have been assigned the function of determining the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State.

The Electricity Act, 2003 (EA 2003), as amended from time to time, requires the appropriate Commission to be guided by **Multi-Year Tariff (MYT) principles** and the **principles and methodologies specified by the Central Electricity Regulatory Commission (CERC) for determination of the tariff applicable to Generating Companies and Transmission Licensees**, while specifying the Terms and Conditions for determination of tariff. Section 61 of the EA 2003 stipulates:

*“61. The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-*

*(a) The principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;*

*(b) The generation, transmission, distribution and supply of electricity are conducted on commercial principles;*

*(c) The factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;*

*(d) Safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;*

*(e) The principles rewarding efficiency in performance;*

*(f) Multi year tariff principles;*

*(g) That the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission;*

*(h) The promotion of co-generation and generation of electricity from renewable sources of energy;*

*(i) The National Electricity Policy and tariff policy” (emphasis added)*

In accordance with these provisions the Maharashtra Electricity Regulatory Commission (“MERC” or “the Commission”) has notified the Maharashtra Electricity Regulatory Commission (Multi-Year Tariff) Regulations, 2019 for the period from April 1, 2020 to March 31, 2025 on August 1, 2019. In accordance with Section 61(a) of the Act, the Commission has been guided by the principles and methodologies specified by the CERC for determination of the tariff applicable to Generating Companies and Transmission Licensees, while framing the Tariff Regulations for the next Control Period. Also, the Commission has continued the approach of Multi-Year Tariffs, which have been in force in the State of Maharashtra from August 2005, in accordance with Section 61(f) of the Act.

The Commission has published the First Amendment to Maharashtra Electricity Regulatory Commission (Multi-Year Tariff) Regulations, 2019 in August 2022, on the issue of Threshold Limit for Tariff Based Competitive Bidding (TBCB) projects for Transmission and has invited comments from stakeholders.

The Commission has come across a number of issues for which a further amendment to the MERC (MYT) Regulations, 2019 has become necessary. The nature and background of these issues are discussed as below:

1. The State Transmission Utility (STU) filed a Petition on 30 January, 2020 in Case No. 52 of 2020 under Regulation 102 (Removal of difficulties) of the MERC MYT Regulations, 2015 (MYT Regulations 2015) and Regulation 106 of the MERC (MYT) Regulations, 2019 (MYT Regulations 2019) seeking removal of difficulties in implementation of certain provisions of the applicable MYT Regulations relating to framework for levy of Transmission Charges to TSUs.

The Commission issued Order dated 18 October 2020 in Case No. 52 of 2020 and clarified the applicability of charges under different circumstances, till the amendment of the MYT Regulations, 2019. Hence, the MERC MYT Regulations, 2019 needs to be amended for incorporating this change regarding levy of Transmission Charges.

2. The Commission notified the MERC (Approval of Capital Investment Schemes) Regulations, 2022 on 15<sup>th</sup> July 2022, in which, the Commission has brought in some changes in the manner in which certain expenses shall be treated. These changes need to be reflected in the MERC MYT Regulations, 2019, by making the necessary amendments.
3. The Ministry of Power (MoP), Government of India, issued the “Revised Policy for Biomass Utilisation for Power Generation through Co-firing in Coal based Power Plants” on 8<sup>th</sup> October 2021.

Recently, on 21<sup>st</sup> July 2022, the Ministry of Power (MoP), Government of India, has sent a letter to the Chief Secretaries of all States, wherein it is stated “*State may also urgently take up*

*the matter with their SERC for inclusion of biomass utilization in respective Tariff Regulations”.*

These provisions need to be reflected in the MERC MYT Regulations, 2019, by making the necessary amendments.

4. CERC has notified the First Amendment to CERC Tariff Regulations, 2019-24 on 25th August 2020, which primarily relate to installation of emission control systems. As this Amendment is relevant for the State of Maharashtra also, the Commission proposes to incorporate the relevant amendment clauses at the appropriate places in the MERC MYT Regulations, 2019.
5. CERC has notified the Second Amendment to CERC Tariff Regulations, 2019-24 on 19<sup>th</sup> February 2021, which primarily relate to transfer pricing of coal from the integrated mine allocated to the Generating Station. This Second Amendment is relevant for the State of Maharashtra also, as MSPGCL has been allotted a captive coal mine. Hence, the Commission proposes to incorporate the relevant amendment clauses at the appropriate places in the MERC MYT Regulations, 2019.
6. The Ministry of Power (MoP) has notified the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 3<sup>rd</sup> June 2022. MoP has also sent a letter dated 13<sup>th</sup> September 2022 to all Electricity Regulatory Commissions (ERCs), advising the ERCs to make the Regulations consistent and in alignment with the above-said Rules. Hence, the Commission proposes to incorporate the relevant amendment clauses at the appropriate places in the MERC MYT Regulations, 2019.

**The rationale for the changes proposed in the Second Amendment to the MERC MYT Regulations, 2019 have been elaborated in this Explanatory Memorandum.**

The Commission while formulating Draft Second Amendment to MERC MYT Regulation, 2019, has endeavoured to balance the interest of consumers, Generating Companies, Transmission Licensees, Distribution Licensees and SLDC.

The Explanatory Memorandum is organised in the following Chapters:

**Chapter 1:** Introduction

**Chapter 2:** STU Petition Seeking Removal of Difficulties in Implementation of MYT Regulations. (Amendments related to levy of transmission charge)

**Chapter 3:** Amendments required on Account of Provisions of MERC (Approval of Capital Investment Schemes) Regulations, 2022

**Chapter 4:** Ministry of Power (MoP) revised policy for co-firing of biomass in coal-based power plants

**Chapter 5:** Amendments made to CERC Tariff Regulations, 2019-24

**Chapter 6:** Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 issued by MoP.

## 2 STU Petition Seeking Removal of Difficulties in Implementation of MYT Regulations

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This Chapter of the Explanatory Memorandum elaborates the reasoning and justification for incorporating this change regarding levy of Transmission Charges.

### 2.1 Background

The State Transmission Utility (STU) filed a Petition on 30<sup>th</sup> January, 2020 in Case No. 52 of 2020 under Regulation 102 (Removal of difficulties) of the MERC MYT Regulations, 2015 (MYT Regulations 2015) and Regulation 106 of the MERC (MYT) Regulations, 2019 (MYT Regulations 2019) seeking removal of difficulties in implementation of certain provisions of the applicable MYT Regulations.

STU, inter-alia, sought clarification on the methodology to be adopted for levying Transmission Charges as per the Regulation 66 (a), (b) and (c) of the MYT Regulations 2019, read with Regulations 14.1 and 14.5 of the MERC (Transmission Open Access) Regulations, 2016. The relevant extracts of the Regulation 66 (a), (b) and (c) of the MYT Regulations 2019 are as below:

*“a) Long-term TSU with recorded demand up to Base TCR shall not be subjected to payment of short-term transmission charges.*

*b) Long-term TSU with recorded demand greater than Base TCR but lower than Contracted Capacity shall make payment of short-term Transmission charges for the recorded demand in excess of Base TCR.*

*c) Where the recorded demand of long-term TSU is greater than Contracted Capacity, the TSU shall bear additional transmission charges as specified in the Regulations of the Commission governing Transmission Open Access”*

The relevant extracts of Regulations 14.1 and 14.5 of the MERC (Transmission Open Access) Regulations, 2016 are as under:

*“ 14.1. A Transmission System User shall pay the following charges to the Nodal Agency:*

*(a) For use of the Inter-State Transmission System – As stipulated by the Central Commission from time to time;*

***(b) For use of the Intra-State Transmission System – As stipulated by the Commission from time to time.*** (emphasis added)

***“14.5. A Transmission System User availing Open Access shall also be liable to pay an additional Regulatory Charge at the rate of twenty-five percent of the Transmission***



**Charges for the use of an Intra-State Transmission System in excess of its Transmission Capacity Rights. ” --(emphasis added)**

The STU’s main prayers in its Petition were as under:

“

- i. *Provide guidance on whether MTOA contracts are also to be included in 'Contracted Capacity'.*
- ii. *Provide clarification for application of clause 14.1 (c), in MERC TOAR, 2016 as per first amendment, 2019 while levying additional transmission charges as per Regulation 63(b) of MYT Regulations, 2015.*
- iii. *Provide guidance for application of rebate as per clause 35.1 of MYT Regulations, 2015 for payment of charges as per clause 63 (a) (b) (c) of MERC MYT Regulations, 2015*
- iv. *Guidance for application of these charges for previous periods.*
- v. *Approve the methodology given in table No.1 for applying short term transmission charges [as per clause 64.3 (b) of MYT Regulations, 2015], additional transmission charges [as per clause 64.3 (c) of MYT Regulations, 2015] and additional regulatory charges [as per clause 14.5 of TOA Regulations 2016], as described in above table in cases where maximum recorded demand exceeds the base TCR and Contracted Capacity.*
- vi. *Direct TSUs to provide contracted capacity along with their PPAs.*
- vii. *Direct TSUs to amend its change in contracted capacity in BPTA time to time.”*

The Commission, vide Order dated 18 October 2020 in Case No. 52 of 2020, inter-alia ruled as under:

*“vii. As highlighted above, the Regulation 63 was framed with the expectation that CC shall be always greater than or at least equal to Base TCR but not less than Base TCR. However, as cited above, subsequent to notification of these Regulations, over the period, it is noted that cases different to those envisaged in the normal course have emerged. Implementation of Regulation 63 in the present form to these cases emerged over the period would lead to undue burden or undue benefit to some of the TSUs in terms of double Transmission Charges, which is not the intention of the MYT Regulations. Hence, it is necessary to remove the difficulty that has arisen in the implementation of the provision of Regulation 63 of the MYT, 2015 (and 66 of MYT Regulation, 2019) so as to avoid the double charging of Transmission Charges if  $RMD > Base\ TCR > CC$ . This has been reiterated by some of the TSU’s.*

*viii. However, the Commission notes that the MYT Regulations, 2015 were applicable from FY2016-17 and only up to FY 2019-20. It means these Regulations are repealed now and*

applicability of these Regulations, 2015 is over. Hence, MYT Regulations, 2015 cannot be amended either retrospectively or prospectively. That being the constraint, the only option available is to remove the difficulty that has arisen in the implementation of the MYT Regulations, 2019 which are applicable for FY 2020-21 to FY 2024-25, i.e., 4<sup>th</sup> Control Period.

...

xvii. Based on the above discussion, the Table for LTTC, STTC and ARC as per the provisions of the Regulation 66 of the MYT Regulations, 2019 is as under:

**Table No.6: Applicable charges and their calculation on 15 Minute time block basis as per Regulation 66 (a) (b) (c) of MYT Regulations, 2019 as approved by the Commission.**

<b>Sl. No.</b>	<b>Scenario</b>	<b>Applicable Charges as proposed by STU</b>	<b>Calculations of charges in addition MTC as suggested by STU</b>	<b>Applicable Charges as clarified by the Commission</b>	<b>Calculations of charges as clarified by the Commission on 15 minute time block basis</b>
a)	<b>RMD</b> < Base <b>TCR</b> < CC	<ul style="list-style-type: none"> <li>• Only MTC</li> <li>• No LTTC</li> <li>• No STTC</li> <li>• No ARC</li> </ul>	NA	<ul style="list-style-type: none"> <li>• Only MTC</li> <li>• No LTTC</li> <li>• No STTC</li> <li>• No ARC</li> </ul>	NA
b)	Base <b>TCR</b> < <b>RMD</b> < CC	STTC as per Regulation 63(b) of MYT Regulations 2015.	$STTC = (RMD - \text{Base TCR}) \text{ in kW} \times \text{S.T. Rate (Rs./kWh)} \times 24 \times \text{No. of days in month}$	STTC as per Regulation 66(b) of MYT Regulations 2019	$STTC = (RMD - \text{Base TCR}) \text{ in kW} \times \text{S.T. Rate (Rs./kWh)}$ * above charge to be applicable for No. of time slots in which RMD exceeded Base TCR
		ARC of 25% of the LTTC for the use of an InSTS in excess	$ARC = (RMD - \text{Base TCR}) \text{ in kW} \times 0.25 \times \text{LTTC (Rs./kW/month)}$	NA. Provision of Regulation 66(b) are clear. Only	NA. MTC covers the Transmission Charges upto Base TCR.

<i>Sl. No.</i>	<i>Scenario</i>	<i>Applicable Charges as proposed by STU</i>	<i>Calculations of charges in addition MTC as suggested by STU</i>	<i>Applicable Charges as clarified by the Commission</i>	<i>Calculations of charges as clarified by the Commission on 15 minute time block basis</i>
		<i>of its Base TCR as per Regulation 14.5 of TOAR 2016.</i>		<i>STTC will be applicable.</i>	
<i>c(i)</i>	<i>CC &lt; RMD &lt; Base TCR</i>	<i>ATC as per Regulation 14.1 (b) of TOAR, 2016</i>	<i>ATC = (RMD– CC) in kW x LTTC (Rs/kW/month).</i>	<i>NA</i>	<i>STTC will not apply as RMD is within Base TCR. TSU has paid Transmission charges upto Base TCR.</i>
<i>c(ii)</i>	<i>Base TCR &lt; CC &lt; RMD</i>	<i>ARC=25% of the LTTC for the use of an InSTS in excess of its TCR. Regulation 14.5 of TOAR,2016. ATC as per Regulation 14.1 (b) of TOAR, 2016</i>	<i>ARC = (RMD– Base TCR) in kW x 0.25 x LTTC (Rs/kW/month) ATC = (RMD– CC) in kW x LTCC (Rs/kW/month)</i>	<i>STTC as per Regulation 66 (b) of MYT Regulations 2019 ARC=25% of the LTTC for the use of an InSTS in excess of its CC as per Regulation 66 (c) of MYT Regulations, 2019 and Regulation 14.5 of TOAR,2016. LTTC as per Regulation 14.1 (b) of TOAR, 2016</i>	<i>STTC = (RMD– Base TCR) in kW x S.T. Rate (Rs./kWh) ARC = (RMD– CC) in kW x 0.25 x LTTC (Rs/kW/month) * above charges to be applicable for No. of time slots in which RMD exceeded Base TCR (for STTC) or CC (for ARC), as the case may be.</i>

<i>Sl. No.</i>	<i>Scenario</i>	<i>Applicable Charges as proposed by STU</i>	<i>Calculations of charges in addition MTC as suggested by STU</i>	<i>Applicable Charges as clarified by the Commission</i>	<i>Calculations of charges as clarified by the Commission on 15 minute time block basis</i>
C (iii)	CC < Base TCR < RMD			STTC as per Regulation 66 (b) of MYT Regulations 2019 ARC=25% of the LTTC for the use of an InSTS in excess of its BTCR. Regulation 14.5 of TOA,2016	$STTC = (RMD - Base\ TCR) \times S.T.\ Rate$ (Rs./kWh) $ARC = (RMD - Base\ TCR) \times 0.25 \times LTTC$ (Rs/kW/month) * above charges to be applicable for No. of time slots in which RMD exceeded Base TCR

xviii. Application of charges as per Regulation 66 (a) (b) (c) of MYT Regulations, 2019 shall be as shown in the Table 6 above from 1 April, 2020 on 15-minute time block basis as per data submitted by SLDC i.e. for 4<sup>th</sup> Control Period till the amendment of the MYT Regulations, 2019.”

## 2.2 Amendment to Regulation 2 of the Principal Regulations

In view of the above, the Commission proposes to amend the definition of Contracted Capacity under Regulation 2 of the Principal Regulations, as under:

“(21) “**Contracted Capacity**” means the capacity in MW contracted by a long-term Transmission System User as part of its long-term **and medium-term** power procurement plan through a power purchase agreement or arrangement, and shall be equivalent to the deemed Transmission Capacity Right of a Transmission System User as specified under the Regulations of the Commission governing Transmission Open Access;”

### **2.3 Amendment to Regulation 66 of the Principal Regulations**

The Regulation 66 is proposed to be substituted by the following:

*“The charges for intra-State transmission usage shall be shared among various TSUs in the following manner:*

- a) *Long-Term TSU with Recorded Demand in any 15-minute time block up to Base TCR shall not be subjected to payment of Short-Term Transmission Charges.*
- b) *Long-Term TSU with Recorded Demand in any 15-minute time block greater than Base TCR but lower than Contracted Capacity shall make payment of Short-Term Transmission Charges for the recorded demand in excess of Base TCR.*
- c) *Long-Term TSU with Recorded Demand in any 15-minute time block lower than Base TCR and greater than Contracted Capacity shall not be subjected to payment of Short-Term Transmission Charges.*
- d) *Long-Term TSU with Recorded Demand in any 15-minute time block greater than Contracted Capacity, where Contracted Capacity is greater than Base TCR, shall make payment of Short-Term Transmission Charges for the Recorded Demand in excess of Base TCR and shall also make payment of Additional Regulatory Charge for Recorded Demand in excess of Contracted Capacity as specified in Regulation 14.5 of the Maharashtra Electricity Regulatory Commission (Transmission Open Access) Regulations, 2016, as amended time to time.*
- e) *Long-Term TSU with Recorded Demand in any 15-minute time block greater than Base TCR, where Contracted Capacity is less than Base TCR, shall make payment of Short-Term Transmission Charges for the Recorded Demand in excess of Base TCR and shall also make payment of an Additional Regulatory Charge for Recorded Demand in excess of Base TCR as specified in Regulation 14.5 of the Maharashtra Electricity Regulatory Commission (Transmission Open Access) Regulations, 2016 as amended time to time:*

*Provided that the calculation of the Short-Term Transmission Charges and Additional Regulatory Charge shall be based on the 15-minute time block basis or as amended time to time:*

*Provided further that the applicability and calculation of the Short-Term Transmission Charges and Additional Regulatory Charge shall be as shown in the Table below:*

<i>Sl. No.</i>	<i>Scenario</i>	<i>Applicable Charges</i>	<i>Calculations of charges on 15-minute time block basis</i>
<i>a)</i>	<b>RD</b> < Base TCR < CC	Only Monthly Transmission Charges (MTC)	STTC will not apply as RD is within Base TCR. TSU pays Transmission charges upto Base TCR.
<i>b)</i>	Base TCR < <b>RD</b> < CC	STTC as per Regulation 66(b) of MYT Regulations, 2019	STTC = (RD – Base TCR) in kW x S.T. Rate (Rs./kWh)
<i>c(i)</i>	CC < <b>RD</b> < Base TCR	Only MTC	STTC will not apply as RD is within Base TCR. TSU pays Transmission charges upto Base TCR.
<i>c(ii)</i>	Base TCR < CC < <b>RD</b>	STTC as per Regulation 66 (b) of MYT Regulations, 2019  ARC equal to 25% of the LTTC for the use of InSTS in excess of its CC as per Regulation 66 (c) and Regulation 14.5 of TOAR, 2016.	STTC = (RD – Base TCR) in kW x S.T. Rate (Rs./kWh)  ARC = (RD – CC) in kW x 0.25 x LTTC (Rs/kW/month)
<i>C (iii)</i>	CC < Base TCR < <b>RD</b>	STTC as per Regulation 66 (b) of MYT Regulations 2019  ARC=25% of the LTTC for the use of an InSTS in excess of its Base TCR. Regulation 14.5 of TOA,2016	STTC = (RD – Base TCR) in kW x S.T. Rate (Rs./kWh)  ARC = (RD – Base TCR) in kW x 0.25 x LTTC (Rs/kW/month)

”

### 3 Amendments related to provisions of MERC (Approval of Capital Investment Schemes) Regulations, 2022

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This Chapter of the Explanatory Memorandum elaborates the reasoning and justification for incorporating Amendments required on account of introduction of certain provisions in the MERC (Approval of Capital Investment Schemes) Regulations, 2022.

The Commission has notified the MERC (Approval of Capital Investment Schemes) Regulations, 2022 on 15<sup>th</sup> July 2022, in which, the Commission has brought in some changes in the manner in which certain expenses shall be treated. These changes need to be reflected in the MERC MYT Regulations, 2019, by making the necessary amendments. as under:

#### 3.1 Allowance of additional O&M expenses on account of shifting of certain investments from Capex to O&M

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“3.19 The indicative list of various categories of Schemes that shall not be allowed as Capital Investment Schemes (DPR as well as Non-DPR) for Generating Companies/Businesses or Transmission Licensees/Businesses or Distribution Licensees/Businesses/MSLDC is as follows:*

...

*Provided that the Commission may consider any request for revision of the normative O&M expenses on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis, as may be allowed under the applicable MERC (Multi-Year Tariff) Regulations”.*(emphasis added)

The provisions of the MERC (Approval of Capital Investment Schemes) Regulations, 2022 have only clarified the principles to be followed for allowing any expenditure under Capital Investment or O&M expenses with linkage to life-cycle cost analysis, and there is no intent to change any approach.

The Commission proposes to define “Life-cycle Cost Analysis” in the Principal Regulations, as under:

*“(51)(a) “Life-cycle Cost Analysis” means the process of assessing the total cost of ownership of an asset over its entire Useful Life, after taking into account all costs of acquiring, owning, maintaining and disposing of such asset;”*

Further, it may be that certain expenses have not been considered under O&M expenses, while approving the normative O&M expenses based on past trends, or while framing the norms for O&M expenses. With the added clarity regarding treatment as O&M expenses rather than capital investment, the actual O&M expenses incurred by Utilities may be higher than the normative O&M expenses determined based on past actual O&M expenses. The Commission has proposed to incorporate certain enabling clauses, while at the same time, ensuring that the Utilities do not get the normative O&M expenses revised and then seek pass through of efficiency gains based on lower actual O&M expenses.

Hence, the Commission proposes to add relevant provisions in the principal Regulation for Generating Companies/Businesses, Transmission Licensees/Businesses, and Distribution Licensees/Business are as under:

### **3.1.1 Amendment to relevant Regulations for O&M Expenses**

#### **3.1.1.1 Amendment to Regulation 47.1: Generating Stations/Units that achieved COD before August 26, 2005**

Additional Clause (h) is proposed as under:

*“h) The Commission may consider any request for revision of the normative O&M expenses on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis:*

*Provided that if actual O&M expenses are lower than normative O&M expenses on this account, then no sharing of efficiency gains shall be done to that extent”.*

#### **3.1.1.2 Amendment to Regulation 49.1: For Existing Stations:**

Additional Clause (g) is proposed as under:

*“g) The Commission may consider any request for revision of the normative O&M expenses on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis:*

*Provided that if actual O&M expenses are lower than normative O&M expenses on this account, then no sharing of efficiency gains shall be done to that extent”.*



### **3.1.1.3 Introduction of Regulation 61.9 in the Principal Regulations**

*“61.9 The Commission may consider any request for revision of the normative O&M expenses of the Transmission Licensee on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis:*

*Provided that if actual O&M expenses are lower than normative O&M expenses on this account, then no sharing of efficiency gains shall be done to that extent”.*

### **3.1.1.4 Introduction of Regulation 75.9 in the Principal Regulations**

*“75.9 The Commission may consider any request for revision of the normative O&M expenses of the Distribution Licensee on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis:*

*Provided that if actual O&M expenses are lower than normative O&M expenses on this account, then no sharing of efficiency gains shall be done to that extent”.*

### **3.1.1.5 Introduction of Regulation 84.9 in the Principal Regulations**

*“84.9 The Commission may consider any request for revision of the normative O&M expenses of the Distribution Licensee on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis:*

*Provided that if actual O&M expenses are lower than normative O&M expenses on this account, then no sharing of efficiency gains shall be done to that extent”.*

### **3.1.1.6 Introduction of Regulation 96.7 in the Principal Regulations**

*“96.7 The Commission may consider any request for revision of the normative O&M expenses of MSLDC on account of consideration of some Schemes under O&M rather than Capital Investment on case-to-case basis, depending on the justification to be submitted by the Applicant and the life-cycle cost analysis:*

*Provided that if actual O&M expenses are lower than normative O&M expenses on this account, then no sharing of efficiency gains shall be done to that extent”.*

## **3.2 Framework for computation and recovery of additional RI Charges from local consumer base**

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“3.17 In order to mitigate the impact of varied and high Reinstatement (RI) Charges levied by the Urban Local Bodies for laying down underground distribution infrastructure, fifty (50) percent of the capital cost due to RI shall be recovered from the consumers of the concerned local area through an additional charge to be approved by the Commission from time to time: ...”*

In this regard, Regulation 91.2 of the MERC MYT Regulations, 2019 specifies as under:

*“91.2 The Commission may determine additional or reduced area-specific charges to reflect instances of area peculiarity in terms of high/low distribution losses, high/low reliability of power supply, high reinstatement charges levied by the local body, capital expenditure incurred for purposes beyond Universal Service Obligation and safety measures, etc.:*

*Provided that depending on the local requirements, additional or reduced tariff could be imposed in certain areas, as appropriate.”*

The Commission is of the opinion that for ease of understanding of the method of computation of the additional charges due to high RI charges imposed by the Local Authority, it is important to incorporate a model Illustration under the above clause in the Principal Regulations. Hence, the Commission proposes to include the following Illustration after Regulation 91.2 of the Principal Regulations:

### **3.2.1 Introduction of Illustration after Regulation 91.2 of the Principal Regulations**

**“Illustration:**

Total Capital Investment against all Schemes in FY 2021-22 in a local area = Rs. 500 Crore;

Total RI Charges included in above Capital Investment = Rs. 250 Crore;

Total expenditure recoverable as Capital Investment = Rs. 375 Crore (i.e., Rs. 250 Crore + 50% of Rs. 250 Crore of RI);

Balance expenditure recoverable as Additional Charges from concerned Local Area on account of RI in FY 2022-23 = Rs. 125 Crore (i.e., 50% of Rs. 250 Crore of RI);

Total Sales of concerned Local Area in FY 2022-23 = 5000 Million Units;

Additional Energy Charges for all categories of consumers in concerned Local Area on account of RI in FY 2022-23 = Rs. 0.25 per kWh (125\*10/5000)”

### **3.3 Non-DPR Schemes as Percentage of DPR Schemes**

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“4.1 Capital Investment Schemes of a value exceeding Rupees Twenty-five crore or such other amount as may be stipulated by the Commission from time to time shall be considered as DPR Schemes...”*

The MERC MYT Regulations, 2019 specifies as under:

*“59.2 The Capital Investment Plan shall be a least cost plan for undertaking investments and shall cover all capital expenditure projects of a value exceeding Rs. Ten crore or such other amount as may be stipulated by the Commission from time to time, and shall be in such form as may be stipulated...”*

*“74.2 The Capital Investment Plan shall be a least cost plan for undertaking investments and shall cover all capital expenditure projects of a value exceeding Rs. Ten Crore or such other amount as may be stipulated by the Commission from time to time and shall be in such form as may be stipulated by the Commission from time to time...”*

*“24.7 The cumulative amount of capitalisation against non-DPR schemes for any Year shall not exceed 20% or such other limit as may be stipulated by the Commission through an Order, of the cumulative amount of capitalisation approved against DPR schemes for that Year:*

*Provided that the Commission may allow capitalisation against non-DPR schemes for any Year in excess of 20% or such other limit as may have been stipulated by the Commission through Order, on a request made by the Generating Company or Licensee or MSLDC:”*

The increase in the limit for consideration as DPR Scheme from Rs. 10 Crore to Rs. 25 Crore may result in increasing the quantum of Non-DPR Schemes beyond the limit of 20% of DPR Schemes specified in the MERC MYT Regulations, 2019. Hence, it is proposed to incorporate the third proviso to Regulation 24.7, to provide the necessary clarity to the Utilities regarding the treatment of the limit of 20% on account of such change in DPR limit from Rs 10 Crore to Rs. 25 Crore, as under:

### **3.3.1 Introduction of 3<sup>rd</sup> proviso to Regulation 24.7 of the Principal Regulations:**

*“Provided also that the Commission shall allow capitalisation against non-DPR schemes for any Year in excess of 20% or such other limit as may have been stipulated by the Commission through Order, in case the limit of Non-DPR Schemes has been exceeded on account of increase in the limit for consideration as DPR Scheme from Rs. 10 Crore to Rs.*

*25 Crore, as specified in Regulation 4.1 of the Maharashtra (Approval of Capital Investment) Regulations, 2022, as amended from time to time.”*

### **3.4 Additional clarity regarding Opex Schemes**

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“3.25 For Opex Schemes, the Applicant shall submit detailed justification and cost benefit analysis and life-cycle cost analysis of such schemes including savings in O&M expenses, as specified in the MERC (Multi-Year Tariff) Regulations, 2019, as amended from time to time.”*

The MERC MYT Regulations, 2019 specifies as under:

*“47.1 (g) A Generating Company may undertake Opex schemes for system automation, new technology and IT implementation, etc., and, such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the Generating Company shall submit detailed justification, cost benefit analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

Similar provisions exist for Hydro Generating Stations (Regulation 49.1(f), Transmission Licensees (Regulation 61.8), Distribution Licensees (Regulations 75.7 and 84.7), and MSLDC (Regulation 96.6).

As can be seen, the term “life-cycle cost analysis” has been added in the MERC (Approval of Capital Investment Schemes) Regulations, 2022, as one of the justifications to be submitted for approval of Opex Schemes, which are not mentioned in the MERC MYT Regulations, 2019.

Hence, for complete clarity, the relevant clauses of the MERC MYT Regulations, 2019 are proposed to be amended, as under:

### **3.4.1 Amendment to Regulation 47.1 (g) of the Principal Regulations**

*“47.1 (g) A Generating Company may undertake Opex schemes for system automation, new technology and IT implementation, etc., and such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the Generating Company shall submit detailed justification, cost benefit analysis, and life-cycle cost analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

### **3.4.2 Amendment to Regulation 49.1 (f) of the Principal Regulations:**

*“49.1 (f) A Generating Company may undertake Opex schemes for system automation, new technology and IT implementation, etc., and, such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the Generating Company shall submit detailed justification, cost benefit analysis, and life-cycle cost analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

### **3.4.3 Amendment to Regulation 61.8 of the Principal Regulations:**

*“61.8 A Transmission Licensee may undertake Opex schemes for system automation, new technology and IT implementation, etc., and such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the Transmission Licensee shall submit detailed justification, cost benefit analysis, and life-cycle cost analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

### **3.4.4 Amendment to Regulation 75.7 of the Principal Regulations:**

*“75.7 A Distribution Licensee may undertake Opex schemes for system automation, new technology and IT implementation, etc., and, such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the Distribution Licensee shall submit detailed justification, cost benefit analysis, and life-cycle cost analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

#### **3.4.5 Amendment to Regulation 84.7 of the Principal Regulations:**

*“84.7 A Distribution Licensee may undertake Opex schemes for system automation, new technology and IT implementation, etc., and, such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the Distribution Licensee shall submit detailed justification, cost benefit analysis, and life-cycle cost analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

#### **3.4.6 Amendment to Regulation 96.6 of the Principal Regulations:**

*“96.6 The MSLDC may undertake Opex schemes for system automation, new technology and IT implementation, etc., and, such expenses may be allowed over and above normative O&M Expenses, subject to prudence check by the Commission:*

*Provided that the MSLDC shall submit detailed justification, cost benefit analysis, and life-cycle cost analysis of such schemes as against capex schemes, and savings in O&M expenses, if any.”*

#### **3.5 Depreciation for recovery of Capex done at fag end of Useful Life of Principal Asset:**

During the stakeholders’ consultation process while framing the MERC (Approval of Capital Investment Schemes) Regulations, 2022, some Stakeholders submitted that the Commission should allow accelerated depreciation for recovery of essential capital investment undertaken at the fag end of the Useful Life of the principal asset.

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“3.5 The Capital Investment Schemes submitted by Generating Companies or Generating Businesses shall be corelated to the remaining tenure of the Power Purchase Agreement with the Distribution Licensee.”*

In the Statement of Reasons (SOR) issued along with the MERC (Approval of Capital Investment Schemes) Regulations, 2022, the Commission has stated as under:

### ***“2.4.3 Analysis and Commission’s Decision***

*The Commission is of the view that the linkage of Capex recovery of GENCO to remaining PPA tenure is more appropriate and in consumer interest, as the cost recovery of GENCO is linked to PPA tenure; after PPA tenure, GENCO is free to sell to any third-party as generation is delicensed.*

*The aspect raised by AEML-D will get addressed in the Cost Benefit Analysis, in case of "ensuring reliability, continuity of supply" objectives. In case of statutory compliance, the alternatives will be considered at the time of Capex approval. **The issue of Accelerated Depreciation is a subject matter of the MERC MYT Regulations, and cannot be addressed here.**”(emphasis added)*

In the First Amendment to the CERC Tariff Regulations, 2019, in the context of Additional Capitalisation for Emission Control systems, CERC has specified that depreciation for such systems installed after 15 years of Useful Life shall be spread over a period of balance Useful Life plus fifteen years, thereby not allowing accelerated depreciation on such capital investments.

Also, as reproduced above, Regulation 3.5 of the MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies that the Capital Investment Schemes submitted by Generating Businesses shall be correlated to the remaining tenure of the Power Purchase Agreement with the Distribution Licensee. In accordance with the same rationale, it is proposed to incorporate the following clauses regarding depreciation on capital investment undertaken at the fag end of Useful Life of Principal Asset:

#### **3.5.1 Introduction of Regulation 28.4 (A) and 28.4 (B) after Regulation 28.4 in the Principal Regulations:**

*“28.4 (A) The depreciation on capital investment schemes undertaken by Generating Companies or Generating Businesses shall be allowed proportionately correlated to the remaining tenure of the Power Purchase Agreement with the Distribution Licensee.*

*28.4 (B) Depreciation on capital investment schemes shall be computed annually from the date of operation of such capital investment based on straight line method, with salvage value of 10%, over a period of—*

- (i) *Twenty-five years, in case the principal asset is in operation for fifteen years or less as on the date of operation of the capital investment; or*
- (ii) *balance useful life of the principal asset plus fifteen years, in case the principal asset is in operation for more than fifteen years as on the date of operation of the capital investment.*”

### **3.6 Disallowance of Capital Investment or allowance of Lower Return on Equity on Capital Investment in case of certain criteria not being met**

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“9.3 If the in-principle approval has not been obtained for the Capex Scheme in accordance with Regulation 4.3 or if the Applicant is unable to establish the benefits as submitted in the Application for in-principle approval either fully or partly, the Commission may either disallow the capitalisation claimed against the respective DPR Scheme, in part or in full, as appropriate, or allow lower Return on Equity on such investment, as may be specified in the applicable MERC (Multi-Year Tariff) Regulations:...”(emphasis added)*

*“3.23*

*...*

*Provided that in case certain Schemes for asset replacement are allowed by the Commission under exceptional circumstances despite not fulfilling the above conditions, then the Applicant may be entitled to lower rate of Return on Equity on such investment, as may be specified in the applicable MERC (Multi-Year Tariff) Regulations.”*

The Commission proposes to introduce additional Regulation 29.10 in the Principal Regulations to reflect the above framework, as under:

#### **3.6.1 Introduction of Regulation 29.10 in the Principal Regulations:**

*“29.10 The Commission may either disallow the capitalisation claimed against the respective DPR Scheme, in part or in full, as appropriate, or allow lower Return on Equity on such investment in the following cases:*

- (a) *If the in-principle approval has not been obtained for the Capital Investment Scheme in accordance with Regulation 4.3 of the Maharashtra Electricity*



*Regulatory Commission (Approval of Capital Investment Schemes) Regulations, 2022; or*

- (b) If the Applicant is unable to establish the benefits as submitted in the Application for in-principle approval either fully or partly; or*
- (c) If asset replacement has been permitted despite not meeting criteria specified in Regulation 3.23 of Maharashtra Electricity Regulatory Commission (Approval of Capital Investment Schemes) Regulations, 2022 .”*

### **3.7 Additional extra rupee liability under FERV**

The MERC MYT Regulations, 2019 specifies as under as regards Foreign Exchange Rate Variation:

**“31 Foreign Exchange Rate Variation**

*31.1 The Generating Company or Licensee may hedge foreign exchange exposure in respect of the interest on foreign currency loan and repayment of foreign loan acquired for the generating Station or the transmission system or distribution system, in part or in full at its discretion.*

*31.2 The Generating Company or Licensee shall be permitted to recover the cost of hedging of foreign exchange rate variation corresponding to the foreign debt, in the relevant year as expense, subject to prudence check by the Commission, and extra rupee liability corresponding to such variation shall not be allowed against the hedged foreign debt.*

*31.3 To the extent that the foreign exchange exposure is not hedged, any extra rupee liability towards interest payment and loan repayment corresponding to the foreign currency loan in the relevant year shall be allowed subject to prudence check by the Commission, provided it is not attributable to such Generating Company or the Licensee or its suppliers or contractors. “*

The MERC (Approval of Capital Investment Schemes) Regulations, 2022 specifies as under:

*“15.10 The Generating Company or Licensee shall follow prudent contract practice by incorporating necessary safeguard clauses against risk of price increment on account of Foreign Exchange Rate Variation (FERV) on imported material.*

*15.11 Any extra rupee liability towards FERV on import of material may be disallowed as may be specified in the applicable MERC (Multi-Year Tariff) Regulations.”*

The Commission has incorporated certain tighter rules for treatment of FERV in the MERC (Approval of Capital Investment Schemes) Regulations, 2022, which need to be incorporated in the MERC MYT Regulations, 2019, for giving effect to the same. However, considering the ‘Make in India’ initiative of the Government of India, import of material should not be preferred option.

Accordingly, it is proposed to introduce additional Regulations 31.4 and 31.5 and Explanation in the Principal Regulations, as under:

### **3.7.1 Introduction of Regulations 31.4 and 31.5 in the Principal Regulations:**

*“31.4 The Generating Company or Licensee shall follow prudent contract practice by incorporating necessary safeguard clauses against risk of price increment on account of Foreign Exchange Rate Variation on imported material.*

*31.5 Any extra rupee liability towards Foreign Exchange Rate Variation on import of material may be disallowed.”*

***Explanation:*** *The incidence of Foreign Exchange Rate Variation is invariably expected to be negligible, unless such equipment is not available in India.”*

## 4 MINISTRY OF POWER (MOP) REVISED POLICY FOR CO-FIRING OF BIOMASS IN COAL BASED POWER PLANTS

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The Ministry of Power (MoP), Government of India, issued the “Revised Policy for Biomass Utilisation for Power Generation through Co-firing in Coal based Power Plants” on 8<sup>th</sup> October 2021, which stipulates as under:

*“3. In order to further promote use of biomass pellets in coal based thermal power plants, the above Policy is further modified. The modifications in the above Policy are as under:*

- (i) All coal based thermal power plants of power generation utilities with **bowl mill**, shall on annual basis mandatorily use 5 percent blend of biomass pellets made, primarily, of agro residue along with coal with effect from one year of the date of issue of this guideline. The obligation shall increase to 7 percent with effect from two years of issue of this order and thereafter.*
- (ii) All coal based thermal power plants of power generation utilities with **ball & race mill**, shall on annual basis mandatorily use 5 % blend of biomass pellets (torrefied only) made, primarily, of agro residue along with coal. This is to be complied within one year starting from this order. Two years from the date of issue of this order and thereafter the obligation will increase to 7 percent.*
- (iii) All coal based thermal power plants of power generation utilities with **ball & tube mills**, shall on annual basis mandatorily use 5 % blend of torrefied biomass pellets with volatile content below 22%, primarily made of agro residue along with coal. This is to be complied within one year*
- (iv) Generating Utilities having certain units under Reserve Shutdown or not being despatched due to MOD (Merit Order Despatch) consideration would ensure to increase the percentage of co-firing up to 10% in their operating units/plants (5% in plants having ball and tube mills).*
- (v) ...*
- (vi) The policy for co-firing of biomass would be in force for 25 years or till the useful life of the thermal power plant whichever is earlier. The minimum percentage of biomass for co-firing will be reviewed from time to time.*
- (vii) ...*
- (viii) Provisions related to tariff determination and scheduling shall be as given below:*

- a. *For projects set up under Section 62 of the Electricity Act 2003, the increase in cost due to co-firing of biomass pellets shall be pass through in Energy Charge Rate (ECR).*
- b. *For projects set up under Section 63 of the Electricity Act 2003, the increase in ECR due to biomass co-firing can be claimed under Change in Law provisions.*
- c. *Such additional impact on ECR shall not be considered in deciding Merit Order Despatch (MOD) of the power plant.*
- d. *Obligated Entities such as Discoms can meet their Renewable Purchase Obligations (RPO) by buying such generation of co-firing.”*

Recently, on 21<sup>st</sup> July 2022, the Ministry of Power (MoP), Government of India, has sent a letter to the Chief Secretaries of all States, wherein it is stated as under:

*“...Ministry of Power (MOP) has issued **revised policy on 08.10.2021** for the use of agro-residue based biomass and mandated use of 5-7% of biomass co-fired along with the coal for all the thermal power plants.*

...

3. *...Thus, co-firing of biomass pellets is not only environment friendly but also economical option for power utilities as compared to blending of imported coal. **Therefore, we need to ensure that full policy and regulatory support is provided to this initiative.***

...

5. *With the above considerations, it is strongly recommended that State may formulate time bound implementation plan to ensure utilization of biomass to co-fire biomass along with coal in their TPPs and in IPPs from where power is being procured by State. **State may also urgently take up the matter with their SERC for inclusion of biomass utilization in respective Tariff Regulations.**”(emphasis added)*

In this regard, CERC Tariff Regulations 2019-24 specifies as under:

*“19.(2) The Capital Cost of a new project shall include the following:*

*(a) ...*

*(k) Capital expenditure on account of biomass handling equipment and facilities, for co-firing; ...”*

*“43. Computation and Payment of Energy Charge for Thermal Generating Stations*

*(1) ...*

*(4) Where biomass fuel is used for blending with coal, the landed cost of biomass fuel shall be worked out based on the delivered cost of biomass at the unloading point of the generating station, inclusive of taxes and duties as applicable. The energy charge rate of the blended fuel shall be worked out considering consumption of biomass based on blending ratio as specified by Authority or actual consumption of biomass, whichever is lower; ...”*

Accordingly, the Commission is of the opinion that it is necessary to introduce a clause, which would recognise capital expenditure and revenue expenditure for facilitating expenditure on biomass handling equipment and procurement of such biomass, which would encourage the Generating stations to implement such systems. Hence, it is proposed to introduce an additional clause in Regulation 24.1 and additional 6<sup>th</sup> and 7<sup>th</sup> Provisos to Regulation 50.6 of the Principal Regulations, in accordance with the clauses specified by CERC, as under:

#### **4.1 Introduction of Clause (f) in Regulation 24.1 of the Principal Regulations:**

*“24.1 Capital cost for a capital investment Project shall include:*

*(a)...*

*(e) any gain or loss on account of foreign exchange rate variation pertaining to the loan amount availed up to the cut-off date, as admitted by the Commission after prudence check;*

*(f) Capital expenditure on account of biomass handling equipment and facilities, for co-firing: ...*

#### **4.2 Introduction of 6<sup>th</sup> and 7<sup>th</sup> Provisos to Regulation 50.6 of the Principal Regulations:**

*“50.6 Energy Charge Rate (ECR) in Rs/kWh shall be computed up to three decimal places and shall be the sum of the cost of normative quantities of primary and secondary fuel for delivering ex-bus one kWh of electricity, and shall be computed as per the following formula:*

*...*

*Provided also that the Energy Charges, for the purpose of billing/Fuel Surcharge shall be worked out Station-wise/Unit-wise based on weighted average rate based on scheduled generation from each Unit:*

*Provided also that where biomass fuel is used for blending with coal, the landed cost of biomass fuel shall be worked out based on the delivered cost of biomass at the unloading point of the generating station, inclusive of taxes and duties as applicable:*

*Provided also that the energy charge rate of the blended fuel shall be worked out considering consumption of biomass based on blending ratio as specified by Authority or actual consumption of biomass, whichever is lower.”*

## 5 AMENDMENTS MADE TO CERC TARIFF REGULATIONS, 2019-24

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The Electricity Act, 2003 (EA 2003), as amended from time to time, requires the appropriate Commission to be guided by **Multi-Year Tariff (MYT) principles** and the **principles and methodologies specified by the Central Electricity Regulatory Commission (CERC) for determination of the tariff applicable to Generating Companies and Transmission Licensees**, while specifying the Terms and Conditions for determination of tariff. Section 61 of the EA 2003 stipulates:

*“61. The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-*

*(a) The principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;*

*...” (emphasis added)*

In accordance with Section 61(a) of the Act, the Commission has been guided by the principles and methodologies specified by the CERC for determination of the tariff applicable to Generating Companies and Transmission Licensees, while framing the MERC MYT Regulations, 2019.

Subsequently, CERC has notified the First Amendment and Second Amendment to the CERC Tariff Regulations, 2019-24, as discussed below.

### 5.1 First Amendment to CERC Tariff Regulations, 2019-24 on 25<sup>th</sup> August 2020

In the first amendment, CERC has added some definitions, clauses related to Supplementary Capacity Charges, interest on loan, return on equity, working capital requirement, Supplementary Energy Charges, etc., all related to installation of emission control systems by the Generating Company. As this Amendment is relevant for the State of Maharashtra also, the Commission proposes to incorporate the relevant amendment clauses at the appropriate places in the MERC MYT Regulations, 2019, with modifications in some cases, as necessary, as detailed below.

**5.1.1 Introduction of Clause (7)(a) after Clause (7) in Regulation 2.1 of the Principal Regulations:**

*“(7)(a) “Auxiliary energy consumption for emission control system” or “AUXe” in relation to a period in case of coal or lignite based thermal generating station means the quantum of energy consumed by auxiliary equipment of the emission control system of the coal or lignite based thermal generating station in addition to the auxiliary energy consumption under Clause (7) of this Regulation;”*

**5.1.2 Introduction of Sub-Clause d after sub-Clause (25)c in Regulation 2.1 of the Principal Regulations:**

*“d. in respect of an emission control system, the date of putting the emission control system into use after meeting all applicable technical and environmental standards, certified through the Management Certificate duly signed by an authorised person, not below the level of Director of the Generating Company or Generating Business.”*

**5.1.3 Introduction of Clause (33)(b) after Clause (33)(a) in Regulation 2.1 of the Principal Regulations:**

*“(33)(b) “Emission Control System” means a set of equipment or devices required to be installed in coal or lignite based thermal generating station or unit thereof to meet the revised emission standards;”*

**5.1.4 Substitution of the definition in Clause (8)(a) for Availability of thermal Generating Station/Unit:**

Clause (8)(a) of Regulation 2.1 of the Principal Regulations shall be substituted as under:

*“(a) “Availability” in relation to a thermal Generating Station/Unit for any period means the average of the daily average declared capacities as certified by MSLDC for all the days during that period, expressed as a percentage of the installed capacity of the Generating Station/Unit minus the normative Auxiliary Energy Consumption and normative Auxiliary Energy Consumption for Emission Control System in Megawatts (MW), as specified in these Regulations, and shall be computed in accordance with the following formula:*



$$\text{Availability} = 100 \times \sum_{i=1}^N DC_i / \{ N \times IC \times (1 - AUX_n - AUX_{en}) \} \%$$

where -  $N$  = number of time blocks in the given period;

$DC$  = Average Declared Capacity in MW for the  $i^{\text{th}}$  time block in such period;

$IC$  = Installed Capacity of the Generating Station/Unit in MW;

$AUX$  = Normative Auxiliary Consumption in MW, expressed as a percentage of gross generation;

$AUX_{en}$  = Normative Auxiliary Consumption for Emission Control System in MW, expressed as a percentage of gross generation;

Provided that Availability of a thermal Generating Station/Unit for any period shall not exceed hundred per cent;”

#### 5.1.5 Substitution of the definition in Clause (68) for Plant Load Factor:

Clause (68) of Regulation 2.1 of the Principal Regulations shall be substituted as under:

“(68) **“Plant Load Factor”** (or **“PLF”**), in relation to a thermal Generating Station or Unit for a given period, means the total sent-out energy corresponding to scheduled generation during such period, expressed as a percentage of sent-out energy corresponding to installed capacity in that period, and shall be computed in accordance with the following formula:

$$\text{Plant Load Factor (\%)} = 100 \times \sum_{i=1}^N SG_i / \{ N \times IC \times (1 - AUX_n - AUX_{en}) \} \%$$

Where,

$N$  = number of time blocks in the given period;

$SG_i$  = Scheduled Generation in MW for the  $i^{\text{th}}$  time block in such period;

$IC$  = Installed Capacity of the Generating Station in MW;

$AUX_n$  = Normative Auxiliary Consumption in MW, expressed as a percentage of gross generation;

$AUX_{en}$  = Normative Auxiliary Consumption for Emission Control System in MW, expressed as a percentage of gross generation;”

### **5.1.6 Amendment to Regulation 41.1 of the Principal Regulations:**

*“41.1 The Tariff for sale of electricity from a thermal power Generating Station **including Emission Control System** shall comprise two parts, namely, Annual Fixed Charge and Energy Charge”.*

### **5.1.7 Introduction of First Proviso to Regulation 24.10 of the Principal Regulations:**

*“Provided that where the Emission Control System is installed, the norms of initial spares specified in this Regulation for coal based/ lignite fired Generating Stations as the case may be, shall apply.”*

### **5.1.8 Introduction of Clause (c) and (d) under Regulation 28.1 of the Principal Regulations:**

*“(c) Where the Emission Control System is implemented within the original scope of the generating station and the date of commercial operation of the generating station or unit thereof and the date of operation of the Emission Control System are the same, depreciation of the generating station or unit thereof including the Emission Control System shall be computed in accordance with Clauses (a) to (c) of this Regulation.*

*(d) Depreciation of the Emission Control System of an existing or a new generating station or unit thereof where the date of operation of the emission control system is subsequent to the date of commercial operation of the generating station or unit thereof, shall be computed annually from the date of operation of such emission control system based on straight line method, with salvage value of 10%, over a period of—*

- i. Twenty-five years, in case the generating station or unit thereof is in operation for fifteen years or less as on the date of operation of the emission control system; or*
- ii. balance useful life of the generating station or unit thereof plus fifteen years, in case the generating station or unit thereof is in operation for more than fifteen years as on the date of operation of the emission control system; or*
- iii. ten years or a period mutually agreed by the generating company and the beneficiaries, whichever is higher, in case the generating station or unit thereof has completed its useful life.”*

### **5.1.9 Modification of First Proviso and Introduction of Second Proviso to Regulation 29.3 of the Principal Regulations:**

*“29.3 The Base Return on Equity shall be computed in the following manner:*

- (a) Return at the allowable rate as per this Regulation, applied on the amount of equity capital at the commencement of the Year; plus*
- (b) Return at the allowable rate as per this Regulation, applied on 50 per cent of the equity capital portion of the allowable capital cost, for the investments put to use in Generation Business or Transmission Business or Distribution Business or MSLDC, for such Year:*

*Provided that Base Return on Equity in respect of additional capitalization after cut-off date beyond the original scope excluding additional capitalization due to Change in Law or revised emission standards, shall be computed at the weighted average rate of interest on actual loan portfolio of the Generating Station or Generating Company or the transmission system or the Transmission Licensee, as the case may be, subject to ceiling of 14 per cent:*

*Provided further that the Return on Equity in respect of additional capitalization on account of emission control system shall be computed at the base rate of one-year marginal cost of lending rate (MCLR) of the State Bank of India as on 1<sup>st</sup> April of the year in which the date of commercial operation (COD) occurs plus 350 basis points, subject to ceiling of 14 per cent.”*

### **5.1.10 Introduction of Regulation 30.5 (A) after Regulation 30.5 of the Principal Regulations:**

*“30.5 (A) The rate of interest on loan for installation of Emission Control System shall be the weighted average rate of interest of actual loan portfolio of the Emission Control System or in the absence of actual loan portfolio, the weighted average rate of interest computed in accordance with Regulation 30.5 shall be considered.”*

### **5.1.11 Introduction of Clause (aa) after Regulation 32.1 (a) of the Principal Regulations:**

*“(aa) In case of Emission Control System of coal or lignite based thermal generating stations, working capital in addition to working capital computed in accordance with Regulation 32.1 (a) shall be allowed covering:*

- (i) Cost of limestone or reagent towards stock for 20 days for generation corresponding to the target availability;
- (ii) Advance payment for 30 days towards cost of reagent for generation corresponding to the target availability;
- (iii) Normative Operation and maintenance expenses in respect of emission control system for one month;
- (iv) Maintenance spares at one per cent of the opening Gross Fixed Assets in respect of emission control system.”

#### 5.1.12 Introduction of Regulation 46.17(A) in the Principal Regulations:

“46.17 (A) Normative Auxiliary Energy Consumption for Emission Control System ( $AUX_{en}$ ) of thermal generating stations shall be:

<b>Sl.</b>	<b>Name of Technology</b>	<b><math>AUX_{en}</math> (as per cent of gross generation)</b>
<b>(1)</b>	<b>For reduction of emission of sulphur dioxide</b>	
a)	Wet Limestone based FGD system (without Gas to Gas heater)	1.0%
b)	Lime Spray Dryer or Semi dry FGD System	1.0%
c)	Dry Sorbent Injection System (using Sodium bicarbonate)	NIL
d)	For CBFC Power plant (furnace injection)	NIL
e)	Sea water based FGD system (without Gas to Gas heater)	0.7%
<b>(2)</b>	<b>For reduction of emission of oxide of nitrogen</b>	
a)	Selective Non-Catalytic Reduction system	NIL
b)	Selective Catalytic Reduction system	0.2%

Provided that where the technology is installed with “Gas to Gas” heater,  $AUX_{en}$  specified above shall be increased by 0.3% of gross generation.”

#### 5.1.13 Introduction of Regulation 46.17 (B) in the Principal Regulations:

46.17 (B) Norms for consumption of reagent:

(1) *The normative consumption of specific reagent for various technologies for reduction of emission of sulphur dioxide shall be as under:*

**(a) For Wet Limestone based Flue Gas De-sulphurisation (FGD) system:** *The specific limestone consumption (g/kWh) shall be worked out by following formula:*

$$[K \times SHR \times S / CVPF] \times [85 / LP]$$

*Where,*

*S = Sulphur content in percentage;*

*LP = Limestone Purity in percentage;*

*SHR = Gross station heat rate, in kcal per kWh;*

*CVPF = (a) Weighted Average Gross calorific value of coal as received, in kcal per kg for coal based thermal generating stations less 85 kcal/kg on account of variation during storage at generating station;*

*(b) Weighted Average Gross calorific value of lignite as received, in kcal per kg, as applicable for lignite based thermal generating stations:*

*Provided that value of K shall be equivalent to (35.2 x Design SO<sub>2</sub> Removal Efficiency/96%) for units to comply with SO<sub>2</sub> emission norm of 100/200 mg/Nm<sup>3</sup> or (26.8 x Design SO<sub>2</sub> Removal Efficiency/73%) for units to comply with SO<sub>2</sub> emission norm of 600 mg/Nm<sup>3</sup>;*

*Provided further that the limestone purity shall not be less than 85%.*

**(b) For Lime Spray Dryer or Semi-dry Flue Gas Desulphurisation (FGD) system:** *The specific lime consumption shall be worked out based on minimum purity of lime (LP) as at 90% or more by applying formula [ 6 x 90 / LP ] g/kWh;*

**(c) For Dry Sorbent Injection System (using sodium bicarbonate):** *The specific consumption of sodium bicarbonate shall be 12 g per kWh at 100% purity.*

**(d) For CFBC Technology (furnace injection) based generating station:** *The specific limestone consumption for CFBC based generating station (furnace injection) shall be computed with the following formula:*

$$[62.9 \times S \times SHR / CVPF ] \times [ 85 / LP ]$$

*Where*

*S = Sulphur content in percentage;*

*LP = Limestone Purity in percentage;*

*SHR = Gross station heat rate, in kcal per kWh;*

*CVPF = (a) Weighted Average Gross calorific value of coal as received, in kcal per kg for coal based thermal generating stations less 85 kcal/kg on account of variation during storage at generating station;*  
*(b) Weighted Average Gross calorific value of lignite as received, in kCal per kg as applicable for lignite based thermal generating stations;*

*(e) For Sea Water based Flue Gas Desulphurisation (FGD) system: The reagent used in sea water based Flue Gas Desulphurisation (FGD) system shall be NIL*

*(2) The normative consumption of specific reagent for various technologies for reduction of emission of oxide of nitrogen shall be as below:*

*(a) For Selective Non-Catalytic Reduction (SNCR) System: The specific urea consumption of SNCR system shall be 1.2 g per kWh at 100% purity of urea.*

*(b) For Selective Catalytic Reduction (SCR) System: The specific ammonia consumption of SCR system shall be 0.6 g per kWh at 100% purity of ammonia.”*

#### **5.1.14 Modification of Clause d) of Regulation 47.1 of the Principal Regulations:**

*“d) Water Charges shall be allowed separately as per actuals, based on water consumption depending upon type of plant, type of cooling water system etc., subject to prudence check and considering the norms of specific water consumption notified by the Ministry of Environment, Forest and Climate Change: ...”*

#### **5.1.15 Introduction of Regulation 47.3 in the Principal Regulations:**

*“47.3 The operation and maintenance expenses on account of Emission Control System in coal or lignite based thermal generating station shall be 2% of the admitted capital expenditure (excluding interest during construction) as on its date of commercial operation, which shall be escalated annually @3.5% during the Control Period ending on 31<sup>st</sup> March 2025:*

*Provided that income generated from sale of gypsum or other by-products shall be reduced from the operation and maintenance expenses.”*

#### **5.1.16 Modification of Proviso to Regulation 50.2 of the Principal Regulations:**

*“Provided that in case of generating station or unit thereof under shutdown due to Renovation and Modernisation or installation of Emission Control System, as the case*

*may be, the Generating Company shall be allowed to recover O&M expenses and interest on loan only.”*

### **5.1.17 Substitution of Regulation 50.6 of the Principal Regulations:**

*“50.6 Energy Charge Rate (ECR) in Rs/kWh shall be computed up to three decimal places and shall be the sum of the cost of normative quantities of primary and secondary fuel for delivering ex-bus one kWh of electricity, and shall be computed as per the following formula:*

$$ECR = \frac{[P_p \times (Q_p)_n + P_s \times (Q_s)_n + SRC \times LPR]}{[1 - (AUX_n + AUX_{en})]} \quad (\text{Rs/kWh})$$

Where,  $P_p$  = landed cost of primary fuel, namely coal or lignite or gas or liquid fuel and limestone, if applicable, in Rs/kg or Rs/cum or Rs/litre, as the case may be;

$(Q_p)_n$  = Quantity of primary fuel required for generation of one kWh of electricity at generator terminals in kg or litre or standard cubic metre, as the case may be, and shall be computed on the basis of normative Gross Station Heat Rate (less heat contributed by secondary fuel oil for coal/lignite based Generating Stations) and gross calorific value of coal/lignite or gas or liquid fuel as billed by supplier less:

(a) Actual loss in calorific value of coal between “as billed by supplier” and “as received at generating station”, subject to the maximum loss in calorific value of 300 kcal/kg; and

(b) actual stacking loss subject to the maximum stacking loss of 85 kcal/kg for pithead stations and 120 kcal/kg for non-pithead stations;

$P_s$  = landed cost of Secondary fuel oil in Rs./ml;

$(Q_s)_n$  = Normative Quantity of Secondary fuel oil in ml/kWh as per Regulations 46.11 and 46.12;

**SRC = Specific reagent consumption on account of revised emission standards (in g/kWh);**

**LPR = Weighted average landed price of reagent for Emission Control System (in Rs/kg);**

$AUX_n$  = Normative Auxiliary Energy Consumption as % of gross generation as per Regulations 46.13 to 46.17;

*AUX<sub>en</sub> = Normative Auxiliary Energy Consumption of Emission Control System  
as % of gross generation as per Regulation 47.3:...*

#### **5.1.18 Substitution of Regulation 51.4 of the Principal Regulations:**

*“51.4 The PAFM shall be computed in accordance with the following formula:*

$$PAFM = 100 \times \sum_{i=1}^N DC_i / \{ N \times IC \times ( 1 - AUX - AUX_e ) \} \%$$

*Where,*

*AUX = Normative auxiliary energy consumption as a percentage of gross energy generation;*

*AUX<sub>e</sub> = Normative auxiliary energy consumption for Emission Control System as a percentage of gross energy generation, wherever applicable;*

*DC<sub>i</sub> = Declared capacity (in ex-bus MW) for the i<sup>th</sup> day of the month which the Station can deliver for at least three hours, as certified by the MSLDC after the day is over;*

*IC = Installed capacity (in MW) of the complete Generating Station;*

*N = Number of days in the month.*

*1) Note: DC<sub>i</sub> and IC shall exclude the capacity of generating units not declared under commercial operation and in case of a change in IC during the concerned period, its average value shall be taken.*

#### **5.2 Second Amendment to CERC Tariff Regulations, 2019-24 on 19<sup>th</sup> February 2021**

In the Second Amendment, CERC has specified several clauses for determination of input price of coal or lignite where a Generating Company has the arrangement for supply of coal or lignite from integrated mine(s) for its specified end-use generating stations, for the purpose of determining the energy charges of the generating station.

CERC had constituted a Working Group on 22<sup>nd</sup> April 2019 to suggest the regulatory framework for determination of input price or transfer price from integrated coal mines of Generating Companies. CERC has notified the Second Amendment Regulations after considering the recommendations of the Working Group with regard to regulatory framework for input price of coal or lignite and the stakeholders' comments on the draft Second Amendment Regulations.



The Chhattisgarh State Electricity Regulatory Commission (CSERC) has also adopted the provisions of the CERC Tariff Regulations, 2019 related to determination of input price of coal or lignite for supply of coal or lignite from integrated mine(s), in its CSERC MYT Regulations, 2021. Based on these Regulations, the Chhattisgarh State Power Generation Company Limited (CSPGCL) filed its Multi-Year Tariff (MYT) Petition, including the Petition for determination of Input Price of coal from Gare Palma-III (GP-III) coal mine for Atal Bihari Vajpayee TPS (ABVTPS) for the Control Period from FY 2022-23 to FY 2024-25. The CSERC, vide its Order dated 13<sup>th</sup> April 2022 has determined the Input Price of coal from GP-III coal mine for ABVTPS for the Control Period from FY 2022-23 to FY 2024-25.

This Second Amendment is relevant for the State of Maharashtra also, as MSPGCL has been allotted a captive coal mine. Hence, the Commission proposes to incorporate the relevant amendment clauses at the appropriate places in the MERC MYT Regulations, 2019, as detailed below.

#### **5.2.1 Introduction of Regulation 1.3(A) after Regulation 1.3 in the Principal Regulations:**

*“1.3(A) These Regulations shall be applicable in all cases where a Generating Company has the arrangement for supply of coal or lignite from the integrated mine(s) allocated to it, for one or more of its specified end-use generating stations, whose tariff is required to be determined by the Commission under Section 62 of the Act read with Section 86 thereof.”*

#### **5.2.2 Introduction of Regulation 2.1 (5)(a) after Regulation 2.1 (5) in the Principal Regulations:**

*“(5)(a) “Annual Target Quantity” or “ATQ” in respect of an integrated mine(s) means the quantity of coal or lignite to be extracted during a year from such integrated mine(s) as specified in the Mining Plan:*

*Provided that in case the integrated mine(s) of coal or lignite is ready for supply of coal or lignite as per the Mining Plan but is prevented due to reasons not attributable to the Generating Company, the Commission may relax the Annual Target Quantity up to a maximum of 15% of the quantity of coal or lignite to be extracted during a year as specified in the Mining Plan.”*

### **5.2.3 Modification of Regulation 2.1 (7) of the Principal Regulations:**

The Proviso to Regulation 2.1 (7) shall be modified as under:

*“Provided that it shall not include energy consumed for supply of power by the generating Station to its housing colony and other facilities, for construction works at the generating Station **and integrated mine;**”*

### **5.2.4 Introduction of Regulation 2.1(14)(a) after Regulation 2.1 (14) in the Principal Regulations:**

*“(14)(a) “**Capital Cost**” means the capital cost as determined in Regulation 24 of these Regulations in respect of generating station or transmission system or distribution system, as the case may be, and Regulation 55 (D) in respect of integrated mine(s).”*

### **5.2.5 Modification of Regulation 2.1 (23) of the Principal Regulations:**

At the end of Clause (23) of Regulation 2.1 of the Principal Regulations, the words “except in case of integrated mine(s)” are proposed to be added. The revised definition of Cut-off Date shall now read as under:

*“(23) “**Cut-off Date**” means the last day of the calendar month after thirty-six months from the date of commercial operation of the project, except in case of integrated mine(s);”*

### **5.2.6 Introduction of Regulation 2.1 (24)(a) after Regulation 2.1 (24) in the Principal Regulations:**

*“(24)(a) “**Date of Commencement of Production**” in respect of integrated mine(s) means the date of touching of coal or lignite, as the case may be, as declared by the Generating Company;”*

### **5.2.7 Introduction of Clause e. in Regulation 2.1 (25) in the Principal Regulations:**

*“e. The date of commercial operation in case of integrated mine(s), shall mean the earliest of —*

- i. *the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or*
- ii. *the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 24.9 (A) of these Regulations, exceeds total expenditure in that year; or*
- iii. *the date of two years from the date of commencement of production:*

*Provided that on earliest occurrence of any of the events under sub-clauses (i) to (iii) of Clause (e) of this Regulation, the Generating Company shall declare the date of commercial operation of the integrated mine(s) under the relevant sub-clause with one week prior intimation to the beneficiaries of the end-use or associated generating station(s):*

*Provided further that in case the integrated mine(s) is ready for commercial operation but is prevented from declaration of the date of commercial operation for reasons not attributable to the Generating Company or its suppliers or contractors or the Mine Developer and Operator, the Commission, on an application made by the Generating Company, may approve such other date as the date of commercial operation as may be considered appropriate after considering the relevant reasons that prevented the declaration of the date of commercial operation under any of the sub-clauses of Clause (e) of this Regulation:*

*Provided also that the Generating Company seeking the approval of the date of commercial operation under the preceding proviso shall give prior notice of one month to the beneficiaries of the end-use or associated generating station(s) of the integrated mine(s) regarding the date of commercial operation.”*

#### **5.2.8 Introduction of Regulation 2.1 (33)(c) after Regulation 2.1 (33)(a) in the Principal Regulations:**

*“(33)(c) “**Escrow account**” means the account for deposit and withdrawal of mine closure expenses of integrated mine(s), maintained in accordance with the Guidelines issued by the Coal Controller, Ministry of Coal, Government of India;”*

### **5.2.9 Introduction of Regulation 2.1 (50)(a) after Regulation 2.1 (50) in the Principal Regulations:**

*“(50 a) “Investment Approval” means approval by the Board of the Generating Company or the Transmission Licensee or the Distribution Licensee for the project including funding of the project and the timeline for the implementation of the project:*

*Provided that the date of Investment Approval shall be reckoned from the date of the resolution of the Board of the Generating Company or the Transmission Licensee or the Distribution Licensee:*

*Provided further that in respect of the integrated mine(s), funding and timeline for implementation shall be indicated separately and distinctly in the Investment Approval:*

*Provided also that where Investment Approval includes both the generating station and the integrated mine(s), the funding and timeline for implementation of the integrated mine(s) shall be worked out and indicated separately and distinctly in the Investment Approval.”*

### **5.2.10 Introduction of Regulation 2.1 (51)(b) after Regulation 2.1 (51)(a) in the Principal Regulations:**

*“(51)(b) “Loading Point” in respect of integrated mine(s) means the location of railway siding or silo or the coal handling plant or such other arrangements like conveyor belt, whichever is nearest to the mine, for despatch of coal or lignite, as the case may be;”*

### **5.2.11 Introduction of Regulation 2.1 (54)(a) and (54)(b) after Regulation 2.1 (54) in the Principal Regulations:**

*“(54)(a) “Mine Infrastructure” shall include assets of the integrated mine(s) such as tangible assets used for mining operations, being civil works, workshops, immovable winning equipment, foundations, embankments, pavements, electrical systems, communication systems, relief centres, site administrative offices, fixed installations, handling arrangements, crushing and conveying systems, railway sidings, pits, shafts, inclines, underground transport systems, hauling systems (except movable equipment unless the same is embedded in land for permanent beneficial enjoyment thereof), land demarcated for afforestation and land for rehabilitation and resettlement of persons affected by mining operations under the relevant law;*

*(54)(b) “Mining Plan” or “Mine Plan” in respect of integrated mine(s) means a plan prepared in accordance with the provisions of the Mineral Concession Rules, 1960, as amended from time to time and approved under clause (b) of sub-section (2) of Section 5 of the Mines and Minerals (Development and Rehabilitation) Act, 1957 by the Central Government or by the State Government, as the case may be;”*

#### **5.2.12 Introduction of Proviso to Regulation 2.1 (63) in the Principal Regulations:**

The semi colon (;) at the end of Clause (63) of Regulation 2.1 of the Principal Regulations shall be substituted by colon (:) and a proviso shall be added under the said clause as under:

*“Provided that for integrated mine(s), the Operation and Maintenance Expenses shall not include the mining charge paid to the Mine Developer and Operator, if any, engaged by the Generating Company, and the mine closure expenses.”*

#### **5.2.13 Introduction of Regulation 2.1 (64)(b) after Regulation 2.1 (64)(a) in the Principal Regulations:**

*“(64)(b) “Peak Rated Capacity” in respect of integrated mine(s) means the peak rated capacity of the mine, as specified in the Mining Plan;”*

#### **5.2.14 Introduction of Regulation 2.1 (83)(a) after Regulation 2.1 (83) in the Principal Regulations:**

*“(83)(a) “tonne” means a metric tonne of coal or lignite in respect of integrated mine(s);”*

#### **5.2.15 Substitution of Regulation 2.1 (90) of the Principal Regulations:**

*“(90) “Year” means a financial year (‘FY’) beginning from 1<sup>st</sup> April and ending on 31<sup>st</sup> March:*

*Provided that the first year in case of new project or integrated mine(s) shall commence from the date of commercial operation and end on the immediately following 31<sup>st</sup> March;”*

#### **5.2.16 Introduction of Regulation 24.9 (A) after Regulation 24.9 in the Principal Regulations:**

*“24.9 (A). Supply of Coal or Lignite prior to the Date of Commercial Operation of Integrated Mine:*

*The input price for supply of coal or lignite from the integrated mine(s) prior to their date of commercial operation shall be:*

- (a) *in case of coal, the estimated price available in the investment approval, or the notified price of Coal India Limited for the corresponding grade of coal supplied to the power sector, whichever is lower; and*
- (b) *in case of lignite, the estimated price available in the investment approval or the last available pooled lignite price as determined by the Commission for transfer price of lignite, whichever is lower:*

*Provided that any revenue earned from supply of coal or lignite prior to the date of commercial operation of the integrated mine(s) shall be applied in adjusting the capital cost of the said integrated mine(s).”*

**5.2.17 Introduction of sub-clause (viii) after sub-clause (vii) under Clause (d) of Regulation 24.10 of the Principal Regulations:**

*“(viii) Integrated Mine:*

*As per the Mining Plan.”*

**5.2.18 Introduction of Regulation 39.12 (A) after Regulation 39.12 in the Principal Regulations:**

*“39.12 (A) A Generating Company with integrated mine(s) shall file a Petition for determination of input price of coal or lignite from the integrated mine(s) not later than 60 days from the date of commercial operation of the integrated mine(s) or from the date of notification of these Regulations, whichever is later:*

*Provided that the Generating Company having integrated mine(s) shall file Petition before the Commission for determination of the input price of coal or lignite from the integrated mine(s) containing the details of expenditure incurred and projected to be incurred duly certified by the Auditor, in accordance with the Formats that may be stipulated by the Commission.”*

**5.2.19 Introduction of Proviso to Regulation 50.5 in the Principal Regulations:**

*“Provided also that in case of supply of coal or lignite from the integrated mine(s), the landed cost of primary fuel shall be based on the input price of coal or lignite, as the case may be, as computed in accordance with these Regulations”.*

**Introduction of Regulations 50.6(A), 50.6(B), and Regulation 50.6(C) after Regulation 50.6 in the Principal Regulations:**

*“50.6(A) The Generating Company shall, after the date of commercial operation of the integrated mine(s) till the input price of coal is determined by the Commission under these Regulations, adopt the notified price of Coal India Limited commensurate with the grade of the coal from the integrated mine(s) or the estimated price available in the investment approval, whichever is lower, as the input price of coal for the generating station:*

*Provided that the difference between the input price of coal determined under these Regulations and the input price of coal so adopted prior to such determination, for the quantity of coal billed, shall be adjusted in accordance with Regulation 50.6 (C).*

*50.6(B) The Generating Company shall, after the date of commercial operation of the integrated mine(s), till the input price of lignite is determined by the Commission under these Regulations, fix the input price of lignite for the generating station at the last available pooled lignite price as determined by the Commission for transfer price of lignite or the estimated price available in the investment approval, whichever is lower:*

*Provided that the difference between the input price of lignite determined under these Regulations and the input price of lignite so fixed prior to such determination, for the quantity of lignite billed, shall be adjusted in accordance with Regulation 50.6 (C).*

*50.6(C) In case of excess or short recovery of input price under Regulation 50.6 (A) or Regulation 50.6 (B), the Generating Company shall refund the excess amount or recover the shortfall amount, as the case may be, with simple rate of interest, equal to the Base Rate , as prevalent on the first day of April of the respective Year, plus 150 basis points, in six equal monthly instalments.”*

**5.2.20 Introduction of Part E (A) and introduction of Regulations 55 (A) to 55 (S), after Regulation 55.2 in the Principal Regulations:**

***“PART E (A): DETERMINATION OF INPUT PRICE OF COAL AND LIGNITE FROM INTEGRATED MINE***

***55 (A). Input Price of coal or Lignite***

*55 (A).1 Input price of coal or lignite from the integrated mine(s) shall be determined based on the following components:*

*I) Run of Mine (ROM) Cost; and*

*II) Additional charges:*

- a. crushing charges;*
- b. transportation charge within the mine up to the washery end or coal handling plant associated with the integrated mine, as the case may be;*
- c. handling charges at mine end;*
- d. washing charges; and*
- e. transportation charges beyond the washery end or coal handling plant, as the case may be, and up to the loading point:*

*Provided that one or more components of additional charges may be applicable in case of the integrated mine(s), based on the scope and nature of the mining activities:*

*Provided further that the input price of lignite shall be computed based on Run of Mine (ROM) based on the technology such as bucket excavator-conveyor or belt-spreader or its combination and handling charges, if any.*

*Provided also that Statutory Charges, as applicable, shall be allowed as pass-through expenses.*



**55 (B). Run of Mine (ROM) Cost**

55 (B).1 *Run of Mine Cost of coal in case of integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:*

$$\text{ROM Cost} = (\text{Quoted Price of coal}) + (\text{Fixed Reserve Price})$$

*Where,*

- i. Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal block or mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement: Provided that additional premium, if any, quoted by the generating company during auction, shall not be considered in the Run of Mine Cost;*
- ii. Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement: and*
- iii. Capital cost under Regulation 36D and additional capital expenditure under Regulation 36E shall not be admissible for the purpose of ROM cost in respect of integrated mine(s) allocated through auction route.*

55 (B).2 *Run of Mine Cost of coal in case of integrated mine allocated through allotment route under Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:*

$$\text{ROM Cost} = [(\text{Annual Extraction Cost} / \text{ATQ}) + \text{Mining Charge}] + (\text{Fixed Reserve Price}).$$

*Where,*

- i. Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 55 (F) of these Regulations;*
- ii. Mining Charge is the charge per tonne of coal paid by the generating company to the Mine Developer and Operator engaged by the Generating Company for mining, wherever applicable; and*
- iii. Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement.*

55 (B).3 *Run of Mine Cost of lignite in case of integrated mine(s) for lignite shall be worked out as under:*

$$\text{ROM Cost} = [(\text{Annual Extraction Cost} / \text{ATQ}) + (\text{Mining Charge})]$$

*Where,*

- i. Annual Extraction Cost is the cost of extraction of lignite as computed in accordance with Regulation 55 (F) of these Regulations; and*
- ii. Mining Charge is the charge per tonne of lignite paid by the Generating Company to the Mine Developer and Operator engaged by the Generating Company for mining, wherever applicable.*

55 (B).4 *The Generating Company shall adhere to the Mining Plan for extraction of coal or lignite on annual basis and shall submit a certificate to that effect from the Coal Controller or the competent authority:*

*Provided that deviations from the Mining Plan shall be considered only if such deviations have been approved by the Coal Controller or the revised Mining Plan has been approved by the competent authority.*

55 (B).5 *Run of Mine Cost of coal and lignite shall be worked out in terms of Rupees per tonne.*

## **55 (C). Additional Charges**

*55 (C).1 Where crushing or transportation or handling or washing are undertaken by the Generating Company without engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, additional charges shall be worked out as under:*

*(i) Crushing Charges = Annual Crushing Cost/Quantity;*

*(ii) Transportation Charges = Annual Transportation Cost/Quantity:*

*Provided that separate transportation charges, as applicable, shall be considered from mine up to washery end or coal handling plant associated with the integrated mine(s) and beyond washery end or coal handling plant associated with the integrated mine(s) and up to the loading point, as the case may be;*

*(iii) Handling charges = Annual Handling Cost/Quantity; and*

*(iv) Washing Charges = Annual Washing Cost/Quantity.*

*Where,*

*a. Annual Crushing Cost, Annual Transportation Cost, Annual Handling Cost and Annual Washing Cost shall be worked out on the basis of following components, for which the generating company shall submit the capital cost separately:*

*i. Depreciation;*

*ii. Interest on Working Capital;*

*iii. Interest on Loan;*

*iv. Return on Equity;*

*v. Operation and Maintenance Expenses, excluding mining charge;*

*vi. Statutory charges, if applicable.*

*b. Quantity shall be the quantity of coal or lignite in tonne crushed or transported or handled or washed, as the case may be, during the year duly certified by the Auditor.*

*55 (C).2 Where crushing, transportation, handling or washing are within the scope of the Mine Developer and Operator engaged by the Generating Company, no additional charges shall be admitted, as the same shall be recovered through Mining Charge of the Mine Developer and Operator.*

55 (C).3 *Where crushing, transportation, handling or washing are undertaken by the Generating Company by engaging an agency other than Mine Developer and Operator, the annual charges of such agencies shall be considered as part of the Operation and Maintenance Expenses, provided that the charges have been discovered through a transparent competitive bidding process.*

55 (C).4 *The crushing charges, transportation charges, handling charges, and washing charges shall be admitted by the Commission after prudence check, considering charges of Coal India Limited or similarly placed coal mines or any other reference charges.*

55 (C).5 *The crushing charges, transportation charges, handling charges, and washing charges shall be worked out in terms of Rupees per tonne*

**55 (D). Capital Cost**

55 (D).1 *The expenditure incurred, including IDC, duly certified by the Auditor, for development of the integrated mine(s) up to the date of commercial operation, shall be considered for arriving at the capital cost.*

55 (D).2 *Capital expenditure incurred shall be admitted by the Commission after prudence check.*

55 (D).3 *Capital expenditure incurred on infrastructure for crushing, transportation, handling, washing and other mining activities required for mining operations shall be arrived at separately in accordance with these Regulations:*

*Provided that where crushing, transportation, handling or washing are undertaken by the Generating Company, the expenditure incurred on infrastructures of these components shall be capitalized;*

*Provided further that where mine development and operation, with or without any component of crushing, transportation, handling or washing are undertaken by the Generating Company by engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, the capital expenditure incurred by Mine Developer and Operator or such agency shall not be*

*capitalised by the Generating Company and shall not be considered for the determination of input price.*

*55 (D).4 The capital expenditure shall be determined by considering, but not limited to, the Mining Plan, detailed project report, mine closure plan, cost audit report and such other details as deemed fit by the Commission.*

**55 (E). Additional Capital Expenditure**

*55 (E).1 The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of commercial operation and up to the date of achieving the Peak Rated Capacity may be admitted by the Commission, subject to prudence check and shall be capitalized in the respective year of the Control Period as additional capital expenditure corresponding to the Annual Target Quantity of the year as specified in the Mining Plan or actual extraction in that year, whichever is higher, on following counts:*

- a. expenditure incurred on activities as per the Mining Plan;*
- b. expenditure for works deferred for execution and un-discharged liabilities recognized for works executed prior to date of commercial operation;*
- c. expenditure for works required to be carried out for complying with directions or orders of any statutory authorities;*
- d. liabilities arising out of compliance of order or decree of any court of law or award of arbitration;*
- e. expenditure for procurement and development of land as per the Mining Plan;*
- f. expenditure for procurement of additional heavy earth moving machineries for replacement, on completion of their useful life; and*
- g. liabilities due to Change in Law or Force Majeure events:*

*Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of de- capitalization:*

*Provided further that the Generating Company shall prepare guidelines for procurement and replacement of heavy mining equipment such as Heavy Earth Moving Machineries and share the same with the beneficiaries and submit it to the Commission along with its Petition.*

55 (E).2 *The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of achieving the Peak Rated Capacity may be admitted by the Commission subject to prudence check, and shall be capitalized as Additional Capital Expenditure, corresponding to the Annual Target Quantity of the respective years as specified in the Mining Plan, on following counts:*

- a. expenditure incurred on activities, if any, as per Mining Plan;*
- b. expenditure for works required to be carried out for complying with directions or order of any statutory authority;*
- c. liabilities arising out of compliance of order or decree of any court of law or award of arbitration;*
- d. expenditure for procurement and development of land as per the Mining Plan; and*
- e. liabilities due to Change in Law or Force Majeure events:*

*Provided that in case of replacement of any assets, the additional capitalization shall be worked out after adjusting the gross fixed assets, cumulative depreciation and cumulative repayment of loan of the assets replaced on account of de-capitalization.*

55 (E).3 *The expenditure on following counts shall not be considered as additional capital expenditure for the purpose of these Regulations:*

- a. expenditure incurred but not capitalized as the assets have not been put in service (capital work in progress);*
- b. mine closure expenses;*
- c. expenditure on works not covered under Mining Plan, unless covered under sub-clause (g) of Regulation 55 (E).1 or sub-clause (e) of Regulation 55 (E).2;*
- d. expenditure on replacement due to obsolescence of assets on account of completion of the useful life or due to obsolescence of technology, if the original cost of such assets have not been de-capitalised from the gross fixed assets.*

#### **55 (F). Annual Extraction Cost**

*The Annual Extraction Cost of integrated mine(s) shall consist of the following components:*

- a. Depreciation;*

- b. Interest on Loan;*
- c. Return on Equity;*
- d. Operation and Maintenance Expenses, excluding mining charge;*
- e. Interest on Working Capital;*
- f. Mine closure expenses, if not included in mining charge; and*
- g. Statutory charges, if applicable.*

**55 (G). Capital Structure, Return on Equity and Interest on Loan**

*55 (G).1 For integrated mine(s), debt-equity ratio as on the date of commercial operation and as on the date of achieving Peak Rated Capacity shall be considered in the manner as specified under Regulation 27.*

*55 (G).2 For integrated mine(s), debt-equity ratio for additional capital expenditure admitted by the Commission under these Regulations shall be considered in the manner as specified under Regulation 55 (G).1.*

*55 (G).3 Return on equity shall be computed in rupee terms on the equity base arrived under Regulation 55 (G).1 at the base rate of 14%.*

*55 (G).4 The base rate of return on equity as per Regulation 55 (G).3 shall be grossed up with the effective tax rate computed in the manner specified under Regulation 34.2.*

*55 (G).5 Interest on loan, including normative loan, if any, determined under Clause (1) of this Regulation, shall be arrived at by considering the weighted average rate of interest calculated on the basis of actual loan portfolio, in accordance with Clauses (2) to (7) of Regulation 32 of these regulations.*

**55 (H). Depreciation**

*55 (H).1 Depreciation in respect of integrated mine(s) shall be computed from the date of commercial operation by applying Straight Line Method.*

*55 (H).2 The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission:*

*Provided that,*

- a. *freehold land or assets purchased from grant shall not be considered as depreciable assets and their cost shall be excluded from the capital cost while computing depreciable value of the assets;*
- b. *where the allotment of freehold land is conditional and is required to be returned, the cost of such land shall be part of value base for the purpose of depreciation, subject to prudence check by the Commission; and*
- c. *lease hold land shall be amortized over the lease period or remaining life of the integrated mine(s), whichever is lower.*

*55 (H).3 The salvage value of an asset shall be considered as 10% of the capital cost of the asset:*

*Provided that the salvage value shall be:*

- i) *zero for IT equipment and software;*
- ii) *zero or as agreed by the Generating Company with the State Government for land; and*
- iii) *as notified by the Ministry of Corporate Affairs under the Companies Act, 2013 for specialized mining equipment.*

*55 (H).4 Depreciation in respect of integrated mine(s) shall be arrived at annually by applying depreciation rates or on the basis of expected useful life specified in **Annexure-I(A)** of these Regulations:*

*Provided that specialized mining equipment shall be depreciated as per the useful life and depreciation rate as notified by the Ministry of Corporate Affairs under the Companies Act, 2013.*



### **55 (I). Operation and Maintenance Expenses**

55 (I).1 *The Operation and Maintenance expenses in respect of integrated mine(s) of coal, for the Control Period ending on 31st March 2025 shall be allowed based on the projected Operation and Maintenance Expenses for each year of the tariff period subject to prudence check by the Commission:*

*Provided that the Operation and Maintenance expenses allowed under this clause shall be trued up based on actual expenses for the Control Period ending on 31<sup>st</sup> March, 2025.*

55 (I).2 *Where the development and operation of the integrated mine(s) is undertaken by the Generating Company by engaging Mine Developer and Operator, the Mining Charge of such Mine Developer and Operator shall not be included in Operation and Maintenance Expenses under Regulation 55 (I).1;*

55 (I).3 *Where an agency other than Mine Developer and Operator is engaged by the Generating Company, through a transparent competitive bidding process, for crushing or transportation or handling or washing or any combination thereof, the annual charges of such agency shall be considered as part of Operation and Maintenance Expenses under Regulation 55 (I).1, subject to prudence check by the Commission.*

### **55 (J). Interest on Working Capital**

55 (J).1 *The working capital of the integrated mine(s) of coal shall cover:*

- (i) Input cost of coal stock for 7 days of production corresponding to the Annual Target Quantity for the relevant year;*
- (ii) Consumption of stores and spares including explosives, lubricants and fuel @ 15% of operation and maintenance expenses, excluding mining charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the Generating Company; and*
- (iii) Operation and maintenance expenses for one month, excluding mining charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the Generating Company.*

55 (J).2 *The working capital of the integrated mine(s) of lignite shall cover:-*

- (i) *Input cost of lignite stock for 7 days of production corresponding to the Annual Target Quantity for the year;*
- (ii) *Consumption of stores and spare including explosives, lubricants and fuel @ 20% of Operation and Maintenance expenses, excluding Mining Charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer or Operator, engaged by the Generating Company; and*
- (iii) *Operation and Maintenance expenses for one month, excluding Mining Charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the Generating Company.*

55 (J).3 *The rate and payment of interest on working capital shall be determined in accordance with Regulation 32.1(f).*

**55 (K). Mine Closure Expenses**

55 (K).1 *Where the mine closure is undertaken by the Generating Company, the amount deposited in the Escrow Account as per the Mining Plan, after adjusting interest earned, if any, on the said deposits shall be admitted as Mine Closure Expenses:*

*Provided that,*

- a. *the amount deposited in the Escrow Account as per the Mining Plan prior to the Date of Commercial Operation of the integrated mine(s) shall be indicated separately and shall be recovered over the useful life of the integrated mine(s) in the form of annuity linked to the borrowing rate;*
- b. *the amount deposited in the Escrow Account as per the Mining Plan or any expenditure incurred towards mine closure shall be excluded from the capital cost for computing input price;*
- c. *where the expenditure incurred towards mine closure falls short of or is in excess of the reimbursement received from the Escrow Account during the Control Period till 31<sup>st</sup> March 2025, the shortfall or excess shall be carried forward to the subsequent years for adjustments.*

55 (K).2 *The amount towards mine closure shall be deposited in the Escrow Account as per the Mining Plan and shall be recovered as part of input price irrespective of*

*the expenditure incurred towards mine closure during any of the years of the Control Period.*

*55 (K).3 Where mine closure is within the scope of Mine Developer and Operator engaged by the Generating Company and mine closure expenses are part of the Mining Charge of Mine Developer and Operator, the mine closure expenses shall be met out of the Mining Charge and no mine closure expenses shall be admissible to the Generating Company separately:*

*Provided that,*

- a. the amount deposited in the Escrow Account by the Mine Developer and Operator or by the Generating Company and any amount received from the Escrow Account against expenditure incurred towards mine closure shall not be considered for computing input price; and*
- b. the difference between the borrowing cost, arrived at by considering the weighted average rate of interest calculated on the basis of actual loan portfolio in accordance with the methodology specified in Regulation 30, and the amount deposited in Escrow Account and the interest received from Escrow Account in a year shall be adjusted in the input price of coal or lignite of the respective year, as part of mine closure expenses, on case-to-case basis.*

*55 (K).4 Where the mine closure is within the scope of Mine Developer and Operator engaged by the Generating Company only for a part of useful life of the integrated mine(s) and the Generating Company undertakes the mine closure for the balance useful life, the treatment of mine closure during the period undertaken by the Generating Company shall be in accordance with Regulation 55 (K).1 and mine closure during the period undertaken by the Mine Developer and Operator shall be in accordance with Regulation 55 (K).3:*

*Provided that the treatment of mine closure at the end of useful life of the integrated mine(s) shall be decided by the Commission on case-to-case basis.*

*55 (K).5 The mine closure expenses worked out in accordance with this Regulation shall not be applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015.*

**55 (L). Determination of Input Price**

55 (L).1 *The input price of coal or lignite shall be determined as under:*

$$\text{Input Price} = [\text{ROM Cost} + \text{Additional charges}]$$

55 (L).2 *The credit arising on account of adjustment due to shortfall in overburden removal, GCV Adjustment and Non-tariff Income, if any, shall be dealt separately in the manner specified in these Regulations.*

55 (L).3 *Statutory Charges, as applicable, shall be allowed.*

**55 (M). Recovery of Input Charges**

55 (M).1 *The input charges of coal or lignite shall be recovered as under:*

$$\text{Input Charges} = [\text{Input Price} \times \text{Quantity of coal or lignite supplied}] + \text{Statutory charges, as applicable:}$$

*Provided that where energy charge rate based on input price of coal from integrated mine(s) exceeds by 20% of energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month, prior consent of the beneficiary(ies) shall be required to be obtained by the Generating Company:*

*Provided further that where such consents of beneficiaries are not available, input price of coal from such integrated mine(s) shall be so fixed that energy charge rate based on input price of coal from integrated mine(s) does not exceed by more than 20% the energy charge rate based on notified price of Coal India Limited for the commensurate grade of coal in a month:*

*Provided also that energy charge rate based on input price of coal does not lead to higher energy charge rate throughout the tenure of power purchase agreement than that, which would have been obtained as per terms and conditions of the existing power purchase agreement.*

55 (M).2 *The Generating Company shall work out the comparative energy charge rate based on the input price of coal and notified price of Coal India Limited for the commensurate grade of coal for every month from the date of commercial operation of integrated mine(s) and share the same with beneficiaries.*

**55 (N). Adjustment on account of Shortfall of Overburden Removal (OB Adjustment)**

55 (N).1 *The Generating Company shall remove overburden as specified in the Mining Plan.*

55 (N).2 *In case of shortfall of overburden removal during a year, the generating company shall be allowed to adjust such shortfall against excess of overburden removal, if any, during subsequent three years.*

55 (N).3 *In case of excess of overburden removal during a year, the generating company shall be allowed to carry forward such excess for adjustment against the shortfall, if any, during subsequent three years.*

55 (N).4 *Where the shortfall of overburden removal of any year is not made good by the generating company in accordance with Clause (2) of this Regulation, the adjustment on account of shortfall of overburden removal (OB Adjustment) for that year shall be worked out as under:*

*Where,*

i) *Factor of adjustment for shortfall of overburden removal during the year shall be computed as under:*

*[(Actual quantity of coal or lignite extracted during the year x Annual Stripping Ratio as per Mining Plan) - (Actual quantity of overburden removed during the year/ Annual Stripping Ratio as per Mining Plan)]/ (Annual Target Quantity);*

ii) *Annual Stripping ratio is the ratio of volume of overburden to be removed for one unit of coal or lignite as specified in the Mining Plan.*

iii) *Mining Charge is the charge per tonne of coal or lignite paid by the Generating Company to the Mine Developer and Operator engaged by the Generating Company for mining, wherever applicable.*

55 (N).5 *The provisions of this Regulation regarding adjustment on account of shortfall of overburden removal shall not be applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015.*

**55 (O). Adjustment on account of shortfall in GCV (GCV Adjustment)**

55 (O).1 *In case the weighted average GCV of coal extracted from the integrated mine(s) in a year is higher than the declared GCV of coal for such mine(s), no GCV adjustment shall be allowed.*

55 (O).2 *In case the weighted average GCV of coal extracted from the integrated mine(s) in a year is lower than the declared GCV of coal of such mine(s), the GCV adjustment in that year shall be worked out as under:*

a. *Where the integrated mine(s) are allocated through auction route under Coal Mines (Special Provisions) Act, 2015:*

*GCV Adjustment = (Quoted Price of coal + Fixed Reserve Price) X [(Declared GCV of coal – Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]*

*Where,*

*i) Quoted Price of coal is the Final Price Offer of coal in respect of the concerned coal Block or Mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement:*

*Provided that additional premium, if any, quoted by the Generating Company in auction, shall not be considered; and*

*ii) Declared GCV of coal shall be the GCV of coal as specified or quoted in the auction.*

b. *Where the integrated mine(s) are allocated through allotment route under Coal Mines (Special Provisions) Act, 2015:*

*GCV Adjustment = [(Annual Extraction Cost/ATQ) + (Mining Charge)] X [(Declared GCV of coal – Weighted Average GCV of coal extracted in the year)/(Declared GCV of coal)]*

*Where,*

- i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 55 (F);*
- ii) Mining Charge is the charge per tonne of coal paid by the Generating Company to the Mine Developer and Operator engaged by the Generating Company for mining, wherever applicable; and*
- iii) Declared GCV of coal shall be the average GCV as per the Mining Plan or as approved by the Coal Controller.*

**55 (P). Adjustment on account of Non-Tariff Income (NTI Adjustment)**

*55 (P).1 Adjustment on account of Non-Tariff Income (NTI Adjustment) for any year, such as income from sale of washery rejects in case of integrated mine of coal and profit, if any, from supply of coal to the Coal India Limited or merchant sale of coal as allowed under the Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:*

$$\text{NTI Adjustment} = (\text{All Non-Tariff Income during the year}) / (\text{Actual quantity of coal or lignite extracted during the year})$$

*55 (P).2 The adjustment on account of Non-Tariff Income worked out in accordance with this Regulation shall not be applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015.*

**55 (Q). Credit Adjustment Note**

*55 (Q).1 The credit arising on account of OB Adjustment, GCV Adjustment and NTI Adjustment shall be dealt through Credit Adjustment Note for any year.*

*55 (Q).2 The Credit Adjustment Note shall be issued in favour of the specified end use generating stations on account of OB Adjustment, GCV Adjustment or NTI Adjustment, as the case may be, for that year as under:*

- i. OB Adjustment for the year X Quantity of coal or lignite supplied in that year;*
- ii. GCV Adjustment for the year X Quantity of coal or lignite supplied in that year; and*
- iii. NTI Adjustment in the year X Quantity of coal or lignite supplied in that year.*

55 (Q).3 *The amount in Credit Adjustment Note shall be adjusted against the charges of coal or lignite supplied after the date of issue of Credit Adjustment Note and the integrated mine(s) shall prepare an annual reconciliation statement of such adjustment and furnish the same to all the end use plants and also publish the same on its website.*

**55 (R). Quality Measurement**

*The quality of coal or lignite supplied from the integrated mine(s) shall be measured at the loading point through third party sampling as per the guidelines and procedure specified by the Ministry of Coal, Government of India and records of such measurement of quality of coal shall be made available to the beneficiaries on demand.*

**55 (S). Special Provision**

*Provisions of Part D of these Regulations shall not be applicable in case of integrated mine(s), except to the extent specifically provided for or referred to in Part E (A):*

*Provided that the financial parameters required for determination of input price of coal or lignite from integrated mine(s), if not specifically provided for or referred to in Part E (A), shall be considered as per provisions of these Regulations as applicable to the coal or lignite based generating stations.*

**5.2.21 Introduction of Annexure I (A) in the Principal Regulations:**

**Annexure-I (A): DEPRECIATION SCHEDULE FOR INTEGRATED MINE**

<b>Sr.</b>	<b>Asset Particulars</b>	<b>Life in Years</b>
1	Land Freehold <sup>@</sup>	999
2	Land Leasehold	&&&
3	Temporary Erections	1
4	HEMM <sup>\$</sup>	8
5	Road, bridges, culverts, helipads	25
6	Main Plant Buildings	30
7	Machinery other than HEMM	15
8	Water Supply, drainage and sewerage	15
9	Furnitures and Fixtures	15
10	Office equipment, other than computers	15



11	<i>Hospital equipment</i>	15
12	<i>EDP, WP machines, SATCOM &amp; communication equipment</i>	15
13	<i>Electrical Installations</i>	15
14	<i>Self-propelled vehicles</i>	10
15	<i>Computers, software</i>	3
16	<i>Mine Development Expenses <sup>#</sup></i>	<i>20 or life of mine, whichever is lower</i>
17	<i>Evaluation and exploration <sup>#</sup></i>	<i>20 or life of mine, whichever is lower</i>
18	<i>Others not covered above</i>	15
	<i>Salvage Value shall be other than 5% for following assets –</i> <i>a. IT Equipment, software Zero(0)</i> <i>b. Zero or as agreed with state Government in case of land</i> <i>c. For specialized mining equipment as specified by Ministry of Corporate affairs</i> <i>d. Mine Development expenses, Evaluation and Exploration Zero (0)</i>	
@	<i>Petitioner to submit if the Freehold Land is attached with any conditions for return. If yes, to submit the conditions and period after which the land is to be returned. In such case, the land shall be depreciable based on such details.</i>	
&&&	<i>To be filled by Petitioner, least of lease agreement/mine life/right to use period</i>	
\$	<i>List of individual HEMM with cost of each HEMM be provided separately</i>	
#	<i>In generic sense, Mine Development Expenditure is the expenditure incurred to bring the mine in usable condition after ensuring the economic viability and decision is taken by Mine Owner to develop the mine. While filling under this head, details to the extent feasible are to be given separately.</i>	

	<p><i>Evaluation and exploration expenditure is generally the expenditure incurred associated with finding the mineral by carrying out topographical, geological, geochemical and geophysical studies, exploratory drilling, trenching, sampling, expenditure for activities in relation to evaluation of technical feasibility and commercial viability, acquisition of rights to explore, etc. While filling under this head details to the extent feasible are to be given separately.</i></p>	
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## 6 Electricity (Late Payment Surcharge and Related Matters) Rules, 2022

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This Chapter of the Explanatory Memorandum elaborates the reasoning and justification for incorporating the changes related to Late Payment Surcharge, in order to align the MERC MYT Regulations, 2019 with the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 (LPS Rules, 2022) notified by the MoP on 3<sup>rd</sup> June 2022.

### 6.1 Background

The MoP notified the LPS Rules, 2022 on 3<sup>rd</sup> June 2022, wherein MoP has specified the manner of payment of Late Payment Surcharge (LPS) by Distribution Licensee to Generating Companies, Transmission Licensees, and Trading Licensees, the applicable rate for LPS, payment of arrears in instalments and the treatment thereof, issues related to Payment Security Mechanism, scheduling of power under different situations, etc.

Recently, on 13<sup>th</sup> September 2022, MoP has sent a letter to all the ERCs, wherein it is stated as under:

“ ...

2. *...Any Regulations framed by the Central Electricity Authority or the Appropriate Commission have to be in accordance with the Electricity Act and the Rules made thereunder. In case of any conflict between the Rules and the Regulations, the Rules shall prevail – and to the extent that the Regulations are violative of the Rules they shall be non-est.*

...

6. *All the concerned may take appropriate action for compliance of the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022. Wherever required, the Appropriate Commission shall align their regulation with respect to these Rules.”*

The MERC MYT Regulations, 2019 specify a different dispensation for the treatment of delayed payment to entities by their beneficiaries. Hence, in order to align the MERC MYT Regulations, 2019 with the dispensation stipulated in the LPS Rules, 2022, certain changes need to be incorporated in the MERC MYT Regulations, 2019, by making the necessary amendments.

It may be noted that the LPS Rules, 2022 relate to payment by Distribution Licensee to Generating Companies, Transmission Licensees, and Trading Licensees. The dispensation stipulated by the LPS Rules, 2022 have been appropriately incorporated by proposing the necessary amendments to

the MERC MYT Regulations, 2019. However, as the LPS Rules do not specify any Rules for payment by consumers to the Distribution Licensee, the clauses related to delayed payment by consumers to the Distribution Licensee have been retained as they are. Further, the MERC MYT Regulations, 2019 are not applicable to Trading Licensees, hence, they have been excluded from the Second Amendment.

Also, MERC MYT Regulations, 2019 denote LPS as “Delayed Payment Charge”, hence, the same term has been used in this Second Amendment rather than LPS, though the meaning is the same.

The LPS Rules, 2022 have stipulated certain provisions related to Payment Security Mechanism, scheduling of power under different situations, regulation of power supply and access to defaulting entities, supply obligation of the Generating Company, and power not requisitioned by the Distribution Licensee, etc. As these aspects are not in the purview of the MERC MYT Regulations, 2019, the same have not been incorporated in the proposed Second Amendment to the MERC MYT Regulations, 2019.

The LPS Rules, 2022 have stipulated certain conditions for payment in instalments proposed by the Distribution Licensee, which were to have been proposed within one month of notification of the LPS Rules, 2022. As this period is over, further time period for proposing payment in instalments has not been proposed in the draft Second Amendment to the MERC MYT Regulations, 2019. However, the clauses related to modalities in case a Distribution Licensee has proposed payment in instalments in accordance with the LPS Rules, 2022 have been incorporated appropriately.

The following amendments are proposed in the MERC MYT Regulations, 2019, for aligning the MERC MYT Regulations, 2019 with the dispensation stipulated in the LPS Rules, 2022:

## **6.2 Proposed Amendments to Regulation 2.1 of the MERC MYT Regulations, 2022 on account of LPS Rules, 2022**

### **6.2.1 Introduction of Clause (11)(a) after Clause (11) of Regulation 2.1 in the Principal Regulations:**

*“(11)(a) “**Base Rate of Delayed Payment Charge**” shall mean the one-year Marginal Cost of Funds-based Lending Rate (‘MCLR’) as declared by the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent and in the absence of MCLR, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify:*

*Provided that if the period of default lies in two or more financial years, the Base Rate of Delayed Payment Charge shall be calculated separately for the periods falling in different years;”*

**6.2.2 Introduction of Clause (33)(a) after Clause (33) of Regulation 2.1 of the Principal Regulations:—**

*“(33)(a) "**due date**" means the date by which the bill for the charges for power supplied by the Generating Company or for the transmission service provided by a Transmission Licensee are to be paid, in accordance with the Agreement, as the case may be, and if not specified in the Agreement, forty-five days from the date of presentation of the bill by such Generating Company or Transmission Licensee/STU;”*

**6.2.3 Introduction of Clause (64)(a) after Clause (64) of Regulation 2.1 of the Principal Regulations:—**

*“(64)(a) "**outstanding dues**" means the dues of a Generating Company or a Transmission Licensee, not stayed by a competent court or Tribunal or Dispute Resolution Agency as designated in the Agreement, which remains unpaid by the beneficiary beyond the due date and includes the amount of instalment not paid after the re-determined due date under Regulation 37.6.*

**6.3 Proposed Amendments to Regulation 37 of the MERC MYT Regulations, 2022 on account of LPS Rules, 2022**

**6.3.1 Substitution of Regulation 37.1 of the Principal Regulations:—**

*“37.1 In case the payment of bills of Generation Tariff or Transmission Charges or MSLDC Fees and Charges by the Beneficiary is delayed beyond the due date, Delayed Payment Charge at the Base Rate of Delayed Payment Charge shall be payable on the payment outstanding for the first month of default, notwithstanding anything to the contrary as may have been stipulated in the Agreement or Arrangement with the Beneficiaries:*

*Provided that the rate of Delayed Payment Charge for the successive months of default shall increase by 0.5 percent for every month of delay subject to the condition that the Delayed Payment Charge shall not be more than three percent higher than the Base Rate of Delayed Payment Charge at any time:*

*Provided further that the rate at which Delayed Payment Charge shall be payable, shall not be higher than the rate of Late Payment Surcharge specified in the Agreement, if any.”*

**6.3.2 Introduction of Regulations 37.5, 37.6, and 37.7 after Regulation 37.4 of the Principal Regulations:—**

*“37.5 All payments by a Distribution Licensee to a Generating Company for power procured from it or by a user of a transmission system to a Transmission Licensee shall be first adjusted towards Delayed Payment Charge and thereafter, towards monthly charges, starting from the longest overdue bill.”*

*“37.6 (1) In case the Distribution Licensee has communicated, in writing, to the Generating Company or Transmission Licensee, as the case may be, the outstanding dues and number of instalments in which, the outstanding dues would be paid, within thirty days of the notification of the Late Payment Surcharge Rules, 2022, the following conditions shall be applicable:*

*(a) The Distribution Licensee may make payment in a month more than the equated monthly instalment for the month;*

*(b) The payment of instalment shall be done to all the concerned Generating Companies and Transmission Licensees, as the case may be, on pro-rata basis, depending upon the proportion of their individual outstanding dues.*

*(2) Notwithstanding anything contained in Regulation 37.1, if the Distribution Licensee agrees to payment of the arrears dues as per the instalment fixed under the Late Payment Surcharge Rules, 2022, and makes timely payment of these instalments, then the Delayed Payment Charge shall not be payable on the outstanding dues.*

*(3) In case of delay in payment of an instalment under Clause (1), Delayed Payment Charge shall be payable on the entire outstanding dues as on the date of notification of the Late Payment Surcharge Rules, 2022.*

*“37.7 All the bills payable by a Distribution Licensee to a Generating Company or a Transmission Company shall be time tagged with respect to the date and time of submission of the bill and the payment made by the Distribution Licensee shall be adjusted first against the oldest bill and then to the second oldest bill and so on, so as to ensure that payment against a bill is not adjusted unless and until all bills older than it have been paid for:*

*Provided that any adjustment towards Delayed Payment Charge shall be done in the manner as specified in Regulation 37.5.”*