

APP Inputs/ Suggestions/ Comments on Proposed Amendments in Tariff Policy, 2016

Section I: General Comments

At the outset it needs to be acknowledged that many proposed features – such as 24×7 Power supply; Restriction of AT&C losses to 15%; Discoms to bring down AT&C losses to 10% within 3 years from the time they bring it to the 15% level; Payment of Subsidy through Direct Benefit Transfer; Tariff to be within $\pm 20\%$ of the cost of supply by 1st April 2019 along with simplification of tariff structure; Introduction of pre-paid meters, etc. – are path breaking and have the potential of transforming the sector. Implementation of these provisions would lead the sector to a sustainable growth path.

However, the progressive texture of the document also contains a very regressive provision protecting Central Generating Stations from competition and reintroducing cost plus regime - a discriminatory and anti-consumer provision.

A) Proposed policy reversal – a regressive step

The proposed amendment would have wide ranging impact on investments in Power sector and especially in generation.

The Electricity Act was passed in 2003 and it was expected that the subsequent policies would move towards meeting the objectives of the Act, and thus was expected that the exceptions to the competition provided for state Government owned companies (for legacy reasons) would be gradually removed. However, the proposed amendment expands the exceptions covering almost 80% of the generation as only Private Generators would now be subjected to competition. It is also worth mentioning that the renewable energy sector, Power from which was traditionally procured with tariffs determined on cost plus basis by the regulators, has successfully migrated to competitive procurement and resulted in substantial drop in cost of Power. In this scenario exemption of any generation from competition would be against the provision of act as well as overall objective of improving efficiency and reducing cost of Power.

Such exceptions could have been justified where there is energy deficit. However presently with sufficient generation capacity available such exemption is neither needed nor desirable. It would act as an obstacle for development of Power market and different market products therein which can serve the diverse needs of Power by different consumer categories. This would thus result in inefficiency and hamper consumer interest as mentioned in the sec 5.9 of the tariff policy.

Introducing competition in different segments of the electricity industry is one of the key features of the Electricity Act, 2003 and Tariff Policy, 2006. Tariff Policy 2006 in Para 5.1 stipulated that competition will lead to significant benefits to consumers through reduction in capital costs, efficiency of operations and at the same time facilitate prices to be determined competitively. Consequently, Tariff Policy, 2006 stipulated all future requirement of Power to

be procured through competitive bidding with exemption for Public Sector projects for five years i.e. till January 2011. This was in line with the objective (Para 4(a)) of Tariff Policy, 2006 to ensure availability of electricity to consumers at reasonable and competitive rates.

The five year moratorium was given to NTPC to get adjusted to **competitive regime** of Power procurement. However, NTPC requested for extension of this timeline which was **not agreed** by MoP based on CERC advice dated 16th September, 2010. The findings of CERC were based on the analysis of 14 projects which established that the tariffs discovered through competitive bidding process are significantly lower than regulated tariffs determined under cost plus regime.

Thereafter, the amended Tariff Policy, 2016 rightly continued with the provision of keeping Central Public sector projects out of the cost plus regime. Now Ministry of Power has again proposed a regressive provision to introduce cost plus regime for Central Public Sector projects which is against the vision of competitive Power market envisaged by the Act and the Policy to protect consumer interest.

It is surprising to note that after 12 years, the Ministry of Power, contrary to the advice of CERC, is again proposing to reintroduce this regressive provision of cost plus regime for CGSS in the draft amendment in Tariff Policy, 2016.

In this context, the considerations that lend support to continuation of earlier framework (as detailed in Tariff Policy 2006 & 2016) are as follows:

(i) Discriminatory stance of provisions

The proposed provision discriminates on the ground of ownership – Public vis-à-vis Private to allow Public sector projects to enter into a PPA under cost plus regime. It is pertinent to note that the cardinal principle of public policy is that all stakeholders should be treated alike.

(ii) Pre-empting of PPA and Coal space

Mandatory PPAs, by assigning Power to states, pre-empt the entire space of PPA and Coal thereby shrinking the space for private sector, as both are competing for the same space.

In this context, it may be recalled that to circumvent competitive bidding regime, NTPC signed MoUs/PPAs of about 38000 MW with State Distribution utilities before the deadline of Jan-2011, effectively laying the ground for present stressed capacity in private sector.

It would not be out of place to mention that about 20,000 MW of Commissioned and an equal capacity of under-construction private projects are under stress today due to no long term PPA in foreseeable future. Without pre-emption of PPAs by NTPC, the situation would have been different.

Such PPAs, based on anticipated demand, by Central/State PSUs also block the Coal availability for private sector as Central/State PSUs get granted Coal linkages and Coal block on priority from GoI.

In this scenario, it is significant to highlight that NTPC is yet to sign a single competitively bid project. In order to avoid competitive bidding regime, NTPC has started entering into Joint Ventures with States to remain under cost plus regime.

(iii) Distorting competitive landscape

It would not be an exaggeration to say that, de facto, with the tacit support of MoP, NTPC has been evading competition since 2011. The negative fallout of this is evident from the fact that it has led to a piquant situation wherein Public sector Power plants Sholapur and Barh Stage 2, with Tariff at **Rs. 5.30 & Rs. 5.68 per unit** respectively, have assured PPAs, whereas Private owned plants willing to sell Power between **Rs. 3.00 to Rs. 3.25 per unit** (at the bus-bar) are struggling for want of PPAs. **Substitution of Power of NTPC at Rs 5.30 per unit with Rs 3.00 per unit by Private Generators would lead to savings of Rs 1700 Cr per year for the distribution utilities (for 1000 MW PPA at 85% Availability/PLF). Therefore, for the full term of the PPA (25 years), the savings would amount to Rs 43,000 Cr (approx.).**

A comparison of tariff of 'Green Field Projects Commissioned after 2010' of NTPC and private Power Generators is enclosed as Annexure-I wherein it is evident the cost plus regime is leading to high cost Power - **these distortions in the competitive Power sector landscape are detrimental to consumer interest.**

With the proposed amendment, Ministry of Power is trying to convert this de facto situation to de jure situation by reversing the earlier progressive framework of 2006.

(iv) Long term RTC PPAs are incompatible with emerging energy mix

As the country's energy mix changes to Renewables, we need to invest in flexible generation such as Gas and pumped Hydro storage to manage variability. With Private investment showing interest in Renewables (Pvt. Sector contributes 95% of the total 69 GW RE capacity), public investment needs to focus on Hydro capacity.

Considering the present surplus situation in the country, Prayas in its report 'Electricity Distribution Companies in India- Preparing for an uncertain future' has recommended that new capacity addition should be considered only after existing and under construction capacity at the national level is utilised to the fullest extent.

(v) Anti- Consumer

It is evident from the tariffs of new Public Sector plants that factors such as preferential allocation of Coal, Mandated PPAs, and no Regulatory oversight on energy charges, are proving to be financial drain on Distribution utilities. These high cost PPAs under cost plus regime deny the competitive tariffs to the consumers that are available through competitive bidding process.

In this context, the policy of new capacity addition even from State Generation at very high cost (Rs. 8.7 Cr per MW for 1980 MW Ghatampur project; Rs. 7.9 Cr per MW for 1320 MW Udangudi project; and Rs. 9.6 Cr per MW for THDC Khurja project) begs review. Accordingly, it is suggested that State Generating Stations should also be brought under competitive bidding regime.

(vi) Denies Distribution utilities to optimize their Power procurement plans

The mandated PPAs take away the flexibility from discoms to optimize their Power procurement plans. Recently, we have seen many states are opposing to continue with high cost NTPC plants on account of embedded fixed cost.

In view of the above, it is suggested that Ministry of Power in line with the objective of Electricity Act, 2003 and Tariff Policy, 2006 should ensure that all future Power procurement including from State/Central Public Sector Projects will be done only through competitive bidding. In fact, Tariff Policy should clearly state that with effect from coming of this Tariff Policy, all CGS/SGS would have to obtain their PPAs through competitive bidding.

B) Non-compliance of Regulatory Orders and inconsistency in decisions of Regulatory Commissions the Mechanism for Compensating for Regulatory Delay/ Denial of Change in Law items

Regulators seldom follow timelines prescribed under the Electricity Act, 2003 for determination of tariff and for adjudication of disputes. As per the Ministry of Power's statement recorded in Report of the 37th Standing Committee on Energy (2017-18), it clear that the CERC itself is unable to follow the timeline of six months prescribed in its Conduct of Business Regulations. In the said report, it has noted that Regulatory Matters are kept pending for years without any decisions. It is estimated that as on March 2018, Rs 7,800 crore is stuck due to various delays in receiving orders from regulators. Furthermore, the decisions of the Regulatory bodies are not honoured, especially in cases of Change in Law and compensation thereof.

Any delay in determination of tariff/adjudication of disputes results in the aggrieved/impacted party facing acute cash shortages. However, a delayed payment can be made good by allowing for carrying cost – that in itself is not followed. Only recently, APTEL has allowed recovery of carrying cost for the period in which the claims made by the generating company for compensation towards Change in Law events pending before the regulator.

Even after the directions have been passed by the regulator, Discoms show scant regard towards timely payment of dues and default in compliance with the Orders. Payments are withheld on grounds of Appeal filed, despite there being no stay/injunction. Even if payments are made, 30% to 40% of the total amount payable is withheld unilaterally.

In this context, it has been recommended by the Standing Committee that provisions ought to be introduced for payment of regulatory dues by Distribution companies in case of Orders being challenged before APTEL. It is yet to be seen if the recommendations are implemented.

In this context, while the proposed inclusion of payment of carrying cost for the period from date of occurrence of change in law and till the approval of Change in law by the Commission is a welcome move, an enabling provision regarding payment of certain percentage of regulatory dues by the distribution utility, in case the order of Regulator Commission being taken to high courts, must be incorporated in the Tariff Policy.

Similarly, in terms of the recommendation of the Standing Committee on energy, an enabling provision to achieve consistency and uniformity with regards to orders of the Regulatory Commission including for change in law cases by different regulators should be incorporated in the Tariff Policy.

C) Carrying Cost

While the term Carrying Cost has been used in the proposed amendments in Tariff Policy, it needs to be defined in the Policy for its clear interpretation. Further, to bring about uniformity across all distribution utilities across states, the Government may consider specifying carrying cost as specified in CERC Tariff Regulations, 2014 as base rate of interest as specified by State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points unless any other rate specified in the PPAs.

The detailed clause-wise comments of APP are given in the following section.

Section II: Specific Clause-wise Comments

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
1.	4.0	<p>The objectives of this tariff policy are to:</p> <p>(a) Ensure availability of electricity to consumers at reasonable and competitive rates;</p> <p>(b) Ensure financial viability of the sector and attract investments;</p> <p>(c) Promote transparency, consistency and predictability in regulatory approaches across jurisdictions and minimize perceptions of regulatory risks;</p> <p>(d) Promote competition, efficiency in operations and improvement in quality of supply;</p> <p>(e) Promote generation of electricity from Renewable sources;</p> <p>(f) Promote Hydroelectric Power generation including Pumped Storage Projects (PSP) to provide adequate peaking reserves, reliable grid operation and integration of variable renewable energy sources;</p>	<p>The objectives of this tariff policy are to:</p> <p>(a) Ensure availability of electricity to consumers at reasonable and competitive rates;</p> <p>(b) Ensure financial viability of the sector, optimum utilisation of all investment already made and attract fresh investments;</p> <p>(c) Promote transparency, consistency and predictability in regulatory approaches across jurisdictions, and minimize perceptions of regulatory risks and also ensure efficient time-bound disposal of regulatory cases/ filings;</p> <p>(d) Promote competition, efficiency in operations and improvement in quality of supply;</p> <p>(e) Promote generation of electricity from Renewable sources;</p> <p>(f) Promote Hydroelectric Power generation including Pumped Storage Projects (PSP) and use of existing</p>	<p>Edit at sub-clause (b) is to ensure that the stranded investments/ investments which are sub optimally used, are put to use – which benefits the economy as a whole.</p> <p>Edit suggested at sub-clause (c) as currently, cases take too long a time due to inadequate resources. Steps should be taken to ensure disposal of cases expeditiously.</p> <p>Edit at sub-clause (f) is to ensure that the stranded Gas based assets are utilised adequately, which benefits the economy as a whole.</p> <p>Edit at sub-clause (h) to align with targets of 24x7 Power for all.</p> <p>Addition at sub-clause (j) as Power sector in India has significantly changed over a last decade with demand and supply imbalance largely addressed. To improve the operating efficiency in the distribution segment (supply and wires separation) as also Short Term market efficiency of optimum Power price discovery, the existing market structure of very long term PPAs, cost plus basis PPAs have to change.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		<p>(g) Evolve a dynamic and robust electricity infrastructure for better consumer services;</p> <p>(h) Facilitate supply of adequate and uninterrupted Power to all categories of consumers;</p> <p>(i) Ensure creation of adequate capacity including reserves in generation, transmission and distribution in advance, for reliability of supply of electricity to consumers.</p>	<p><u>gas based generation capacity</u> to provide adequate peaking reserves, reliable grid operation and integration of variable renewable energy sources;</p> <p>(g) Evolve a dynamic and robust electricity infrastructure for better consumer services;</p> <p>(h) Facilitate supply of adequate and uninterrupted 24x7 Power to all categories of consumers;</p> <p>(i) Ensure creation of adequate capacity including reserves in generation, transmission and distribution in advance, for reliability of supply of electricity to consumers;</p> <p><u>(j) Evolve and plan a smooth transition to a electricity market design which supports both short and long term competition and efficiency as also changing generation mix, retail and wire separation.</u></p>	
2.	5.2 Proviso 1	All future requirement of Power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a company owned or	All future requirement of Power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a company owned or	The inclusion of "or Central Government" in the provision which excludes the state Government owned plants and now central Government owned or controlled companies, from competitive procurement, is the sweeping

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		<p>controlled by the State Government or Central Government as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.</p>	<p>controlled by the State Government or Central Government as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.</p>	<p>change which would exclude all NTPC capacities and additions from competitive route. This change is against the spirit of the Electricity Act 2003. The preamble of the act recognizes the need to promote competition:</p> <p style="text-align: center;"><i>An Act to consolidate the laws relating to Generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas...</i></p> <p>The proposed amendment would have wide ranging impact on investments in Power sector and especially in Generation.</p> <p>The act was passed in 2003 and it was expected that the subsequent policies would move towards meeting the objectives of the Act, and thus was expected that the exceptions to the competition provided for state Government owned companies (for legacy reasons) would be gradually removed. However, the proposed amendment expands the exceptions covering almost 80% of the Generation as only Private Generators would now be subjected to competition. It is also worth mentioning that the renewable energy sector, Power from which was traditionally procured with tariffs determined on</p>

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				<p>cost plus basis by the regulators, has successfully migrated to competitive procurement and resulted in substantial drop in cost of Power. In this scenario exemption of any Generation from competition would be against the provision of act as well as overall objective of improving efficiency and reducing cost of Power.</p> <p>Such exceptions could have been justified where there is energy deficit. However presently with sufficient Generation capacity available such exemption is neither needed nor desirable. It would act as an obstacle for development of Power market and different market products therein which can serve the diverse needs of Power by different consumer categories. This would thus result in inefficiency and hamper consumer interest as mentioned in the sec 5.9 of the tariff policy.</p>
3.	5.2 Proviso 3	Provided also that the State Government can notify a policy to encourage investment in the State by allowing setting up of generating plants, including from renewable energy sources out of which a maximum of 35% of the installed capacity can be procured by the Distribution Licensees of that State for which the tariff may be determined under Section 62 of the Electricity Act, 2003	Provided also that the State Government can notify a policy to encourage investment in the State by allowing setting up of generating plants, including from renewable energy sources out of which a maximum of 35% of the installed capacity can be procured <u>in addition to expansion of 100% capacity as mention in para 1 of clause 5.2</u> by the Distribution Licensees of that State for which the tariff may be determined	<p>It is necessary to clarify that 35% of installed capacity can be procured by State through State notified policy in addition to expansion of one time 100% of existing capacity as per para 1 of clause 5.2.</p> <p>This is being suggested with the objective of maximising the usage of land and common infrastructure and also considering deployment of higher unit size e.g. 800 MW as they are more environmentally benign.</p>

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			under Section 62 of the Electricity Act, 2003.	
4.	5.3	The tariff of all new Generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis.	The tariff of all new Generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis.	See Comment for Clause 5.2 Proviso 1.
5.	5.3 Proviso 2	Intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs.	Intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs <u>within six months from notification of the Tariff Policy.</u> <u>All intra-state transmission projects above 220 kV should be suitably packaged above a threshold limit of Rs 100 crore and developed only through competitive bidding process.</u>	The provision for introduction of competitive bidding in transmission was introduced through amendment dated 8 Jul 2011 to the Tariff Policy 2006, which provided <i>"tariff of the projects to be developed by CTU/STU after the period of five years of when the Regulatory Commission is satisfied that the situation is right to introduce such competition (as referred to in Clause 5.1) would also be determined on the basis of competitive bidding.</i> <i>(iii) the intra-state transmission projects by STUs will be exempted from competitive bidding route for further 2 years beyond 06.01.2011."</i>

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				<p>The Tariff Policy was amended and notified on 28 Jan 2016 which provided for Intra-state transmission projects cost above a threshold limit to be awarded through competitive bidding. The threshold limits were to be decided by SERCs and to date, none of the SERCs have undertaken the task of determining the threshold limit and notifying the same.</p> <p>Further, as part of the MYT Regulations, a STU must submit a business plan for the control period to the SERC for approval before these transmission scheme can be undertaken for implementation by the STU. A scrutiny of the Business Plans filed by STUs and approved by the SERCs reveals that transmission schemes are proposed usually at 765 kV, 400 kV, 220 kV and 132 kV levels as individual sub-station and transmission line projects, with bulk of the scheme at 132 kV levels.</p> <p>It is submitted that all intra-state transmission projects above 220 kV voltage level should be suitably package above Rs 100 Cr and developed only through competitive bidding route.</p>
6.	5.4 Proviso 2	Provided that procurement of Power from Coal washery rejects based projects developed by Central/State PSUs, Joint Venture between Government Company and Company other than Government Company in	Provided that procurement of Power from Coal washery rejects based projects developed by Central/State PSUs, Joint Venture between Government Company and Company other than Government Company in	Power procurement under Section 62 of Act from Private sector Coal washery reject based projects to be allowed.

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		<p>which shareholding of company other than Government Company either directly or through any of its subsidiary company or associate company shall not be more than 26% of the paid up share capital, can be done under Section 62 of the Act.</p>	<p>which shareholding of company other than Government Company either directly or through any of its subsidiary company or associate company shall not be more than 26% of the paid up share capital, can be done under Section 62 of the Act.</p>	<p>As mentioned earlier, no public policy should make any distinction on grounds of ownership, and all players should be treated alike.</p>
7.	5.5 (a)	<p>The Appropriate Commission is satisfied that the project site has been allotted to the developer by the concerned State Government after following a transparent two stage process. The first stage should be for prequalification on the basis of criteria of financial strength, past experience of developing infrastructure projects of similar size, past track record of developing projects on time and within estimated costs, turnover and ability to meet performance guarantee etc. In the second stage, bids are to be called on the basis of only one single quantifiable parameter, such as, additional free Power in excess of percentage of free Power, as notified by the Central Government, equity participation offered to the State Government, or any other parameter to be notified by the Central Government from time to time.</p>	<p>The Appropriate Commission is satisfied that the project site has been allotted to the developer by the concerned State Government after following a transparent two stage process. The first stage should be for prequalification on the basis of criteria of financial strength, past experience of developing infrastructure projects of similar size, past track record of developing projects on time and within estimated costs, turnover and ability to meet performance guarantee etc. In the second stage, bids are to be called on the basis of only one single quantifiable parameter, such as, additional free Power in excess of percentage of free Power, as notified by the Central Government, equity participation offered to the State Government, or any other parameter to be notified by the Central Government from time to time.</p>	<p>It is suggested that in case of Pump Storage Plants, the requirement of going through a two-stage bidding process be relaxed and exempted for developers who already have a Hydro project operating in the river basin and which would form part of the PSP scheme.</p> <p>A new clause may be added to accord emphasis on development of pump storage schemes, for balancing and energy storage that they can provide in the increased RE Generation scenario. Such plants may be exempted from requirements of competitive bidding and should be considered under Section 62 for tariff determination.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
8.	5.5 (d)	The time period for Commissioning of all the units of the project shall be fixed at four years or a period specified in the Hydro policy, from the date of approval of the Commissioning schedule by the Appropriate Commission...	The time period for Commissioning of all the units of the project shall be fixed at four years or a period specified in the Hydro policy, from the date of approval of the Commissioning schedule by the Appropriate Commission...	Restriction of four years should be removed as Tariff Regulations provide for timelines for completion of all projects. While approving tariff, Commission takes the prudence of time and cost overrun, and allows pass through of costs for the delays not attributable to the developer. Moreover, timeline for Hydro projects shall vary significantly depending on the location, terrain, geology etc.
9.	5.5 (e)	Award of contracts for supply of equipment and construction of the project, either through a turnkey or through well-defined packages, are done on the basis of international competitive bidding.	Award of contracts for supply of equipment and construction of the project, either through a turnkey or through well-defined packages, are done on the basis of international competitive bidding.	<p>Projects already awarded through competitive bidding should be excluded from this requirement.</p> <p>Most of the private Hydro Power projects have been secured through a transparent process of bidding, where free Power to home state was the criteria.</p> <p>Going forward, balance Power from these plants will supplied to Discoms after due capital cost appraisal by CEA/Commission therefore this restrictive clause can be removed.</p>
10.	New Addition	New Addition in 5.7	<u>(iv) The costs of building infrastructure such as roads and bridges shall be excluded from tariffs. These costs shall be borne by the state Government where the projects are located.</u>	The cost of enabling infrastructure for development of the area should be borne by the state, this would make the new Hydro projects viable and tariff to be paid by the consumers shall be competitive.

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11.	5.10	<p>Consumer interest is best served in ensuring viability and sustainability of the entire value chain viz., Generation, transmission and distribution of electricity, while at the same time facilitating Power supply at reasonable rate to consumers. The financial turnaround/ restructuring plans are approved by the Appropriate Government from time to time to achieve this objective. The Appropriate Government as well as the Appropriate Commission while implementing such plans shall ensure viability of the Generation, transmission and distribution in terms of recovery of all prudent costs.</p>	<p>Consumer interest is best served in ensuring viability, and sustainability <u>and prevention of any asset in of</u> the entire value chain viz., Generation, transmission and distribution of electricity <u>from becoming stranded,</u> while at the same time facilitating Power supply at reasonable rate to consumers. The financial turnaround/ restructuring plans are <u>shall be</u> approved by the Appropriate Government from time to time to achieve this objective. The Appropriate Government as well as the Appropriate Commission while implementing such plans shall ensure viability of the Generation, transmission and distribution in terms of recovery of all prudent costs.</p> <p><u>In respect of the competitively bid projects as per the guideline dated 19.01.2005 which have become stranded due to unexpected and unforeseen increase in fuel prices or have become unviable due to any other reason beyond the control of such generating companies, the Appropriate Commission in exercise of its regulatory Powers shall take necessary steps to devise a</u></p>	<p>To address the unviability issues being faced by imported Coal based and other Power plants due to reasons beyond their control, it is necessary to incorporate suitable provision in tariff policy to ensure that these assets are not being stranded in public interest.</p> <p>In the context of the compensatory framework, the Hon'ble Supreme Court in its Judgement dated 11.4.2017 in case of Energy Watchdog in Civil Appeal No. 5399-5400 of 2016 (Energy Watchdog Vs. Central Electricity Regulatory Commission & Ors.) has held that where the competitive guidelines do not deal with a given situation, CERC can use its general regulatory power under Section 79(1)(b) of the Electricity Act, 2003.</p> <p>Accordingly, an enabling provision in the Tariff Policy should be incorporated to facilitate the Regulatory Commissions to formulate a compensatory framework for such adverse situations which are beyond the control of the developer. As these projects are supplying power on very competitive tariffs, even after implementation of compensatory framework, their revised tariffs would remain lower than the replacement cost of power.</p>

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			<p><u>suitable compensatory framework under Section 79 to achieve the twin objectives of safeguarding the consumer interest and at the same time recovery of cost of electricity in a reasonable manner.</u></p> <p><u>Provided that while devising such framework, the Appropriate Commission shall be guided by the tariff mechanism provided under the new Standard Bidding Documents and at the same time ensure that operational inefficiencies are not passed on to the end-consumers.</u></p>	
12.	5.11 Proviso 1	The following framework is laid down or performance based...	The following framework is laid down or for performance based...	Typographical error needs to be corrected.
13.	5.11 (c)	The Central Commission may notify the rates of depreciation in respect of Generation and transmission assets. The depreciation rates so notified would also be applicable for distribution assets with appropriate modification as may be evolved by the Forum of Regulators...	The Central Commission may notify the rates of depreciation in respect of Generation and transmission assets. The depreciation rates so notified would also be applicable for distribution assets with appropriate modification as may be evolved by the Forum of Regulators...	CERC and SERCs have specified the useful life of Thermal Power plant as 25 years and a Hydro Power plant as 35 years. Common depreciation scheduled for Thermal and Hydro Power plants has been specified and depreciation is calculated annually on Straight Line Method for 12 years post COD and the remaining depreciable value is spread over balance useful life of the assets. This results in front loading and higher Hydro tariffs as compared to Thermal tariffs.

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				<p>It is suggested that separate depreciation rates be specified for Hydro plants which spreads out the recovery of depreciation over the life of the asset leading to lower tariff. Clause 5.8 of the Tariff Policy provides for incentivizing Hydro Power developers for using long-term financial investments and hence the depreciation schedule should be aligned to such long-term financing availed.</p>
14.	5.11 (f)	<p>The Central Commission would, in consultation with the Central Electricity Authority, notify operating norms from time to time for generation and transmission. The SERC would will adopt these norms. In cases where operations have been much below the norms for many previous years, the SERCs may fix relaxed norms suitably and draw a transition path over the time for achieving the norms notified by the Central Commission, or phase them out in accordance with the norms specified by the Authority in this regard.</p>	<p>The Central Commission would, in consultation with the Central Electricity Authority, notify operating norms from time to time for generation and transmission. The SERC would will adopt these norms. <u>In the event of operation of any generating station at less than normative plant load factor due to lower dispatch by the procurers, the consequential impact on SHR and Auxiliary Power Consumption shall be compensated in line with the regulations framed by the Central Commission from time to time and applicable for all generating stations for which the tariff is either determined under Sec. 62 or adopted under Sec. 63.</u> In cases where operations have been much below the norms for many previous years, the SERCs may fix</p>	<p>The national average PLF has been going down year-on-year, and most of the generating stations are operated at low loads due to various reasons. To address the loss being suffered by generating stations with respect to degradation of SHR & Aux consumption, an amendment was made to IEGC by CERC. Since such dispensation has to be made applicable to all generating stations, it would be appropriate to bring in similar provision in Tariff Policy with a direction to all SERCs to implement the same for all generating stations for which the tariff is either determined under Sec. 62 or adopted under Sec. 63.</p>

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			relaxed norms suitably and draw a transition path over the time for achieving the norms notified by the Central Commission, or phase them out in accordance with the norms specified by the Authority in this regard.	
15.	New Addition	New Addition	<u>The operating norms specified by Appropriate Commission shall also be applicable for competitive bid projects for the purpose of Change in Law compensation except those projects where the bids were based on net SHR.</u>	<p>While approving compensation for Change in Law, various Commissions have been adopting different approaches in respect of operating norms. It is necessary to bring in consistency through Tariff policy. The Appellate Tribunal in Case no. 288 of 2013 dated 12.09.2014 has held that it is not correct to co-relate the compensation on account of Change in Law based on the SHR given in the bidding documents.</p> <p>Moreover, operating norms are not biddable parameters in Case-1 type of bidding. It is therefore, necessary to adopt a uniform approach and link it to the operating norms applicable as per appropriate Commission's regulations.</p>
16.	5.11 (g)	Renovation and modernization of Generation plants (including repowering of wind generating plants) need to be encouraged for higher efficiency levels...	Renovation and modernization of Generation plants (including repowering of wind generating plants) <u>and Transmission projects</u> need to be encouraged for higher efficiency levels...	The clause should include Transmission also along with Generation plants.

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17.	5.11 (j)	<p>Explanation: The composite scheme as specified under section 79(1) of the Act shall mean a scheme by a generating company for Generation and sale of electricity in more than one State, having signed long-term or medium-term PPA prior to the date of commercial operation of the project (the COD of the last unit of the project will be deemed to be the date of commercial operation of the project) for sale of at least 10% of the capacity of the project to a distribution licensee outside the State in which such project is located.</p>	<p>Explanation: The composite scheme as specified under section 79(1) of the Act shall mean a scheme by a generating company for Generation and sale of electricity in more than one State, having signed long-term or medium-term PPA prior to the date of commercial operation of the project (the COD of the last unit of the project will be deemed to be the date of commercial operation of the project) for sale of at least 10% of the capacity of the project to a distribution licensee outside the State in which such project is located.</p>	<p>Sec. 79(1)B of the Act doesn't stipulate any percentage for sale of electricity in more than one State. Therefore, stipulating any percentage would not be appropriate. Logically, once there is sale of electricity in more than one State, it should fall under composite scheme irrespective of quantity of sale. Secondly, the condition that PPAs having been signed prior to COD may also subject generating station to the jurisdiction of multiple Commissions in spite of having inter-state sale or sale to more than one State. This may not be the intent of Sec. 79(1)B. Further, the Supreme Court order dated 11.04.2017 has also put to rest the concept of Composite scheme and has no cross-reference to pre-COD.</p>
18.	6.1 Proviso 2	<p>However, some of the competitively bid projects as per the guidelines dated 19th January, 2005 have experienced difficulties in getting the required quantity of Coal from Coal India Limited (CIL). In case of reduced quantity of domestic Coal supplied by CIL, vis-à-vis the assured quantity or quantity indicated in Letter of Assurance/FSA the cost of imported/market based e-auction Coal procured for making up the shortfall, shall be considered for being made a pass through by Appropriate Commission on a case to case basis, as per advisory issued by</p>	<p>However, some of the competitively bid projects as per the guidelines dated 19th January, 2005 have experienced difficulties in getting the required quantity of Coal from Coal India Limited (CIL). In case of reduced quantity of domestic Coal supplied by CIL vis-à-vis the assured quantity or quantity indicated in Letter of Assurance/FSA or under SHAKTI for already concluded PPAs, the landed cost of Imported/Market-based E-Auction Coal/Coal supplied by CIL through various other modes and channels, other than Coal grade and transportation mode</p>	<p>While bringing out the Advisory in 2013, it was presumed that by end of 12th plan, CIL would be able to meet the assured quantity or quantity of Coal indicated in Letter of Assurance/FSA. However, the new framework for Coal allocation also stipulates that only 75% of ACQ will be supplied, and the quantum will only be increase in the future based on Coal availability. With the current stressed outlook of Power sector, it is submitted that the Coal companies should supply 100% of the ACQ, with penal provisions in place for lapses in Coal supply.</p> <p>The necessity to source Coal from alternate sources may also arise due to grade slippage, transit loss and loss of GCV of Coal as received</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		Ministry of Power vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013.	stipulated in FSA shall be considered for being made a pass through by Appropriate Commission on a case to case basis, as per advisory issued by Ministry of Power vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013.	<p>and as fired. Generators should be permitted to source additional Coal under such circumstances, to achieve normative availability and the full cost on this account should be allowed to be recovered from the Procurers.</p> <p>While stipulating 75% of ACQ, SHAKTI (Scheme to Harness and Allocate Koyla (Coal) Transparently in India) does not make any provision for Imported/ E-Auction/ Open Market Coal cost pass-through. The advisory issued by MoP dated 31.07.2013, in para 2, limits the pass-through dispensation to the 'remaining four years of the 12th Plan', as it was presumed that by end of 12th plan period, CIL would be able to meet the assured quantity or quantity of Coal indicated in Letter of Assurance/FSA.</p> <p>As per the decision of Supreme Court in Energy Watchdog case, any cut down in supply of Coal by CIL consequent to a policy decision is Change in Law. On same lines, restriction of Coal supply to 75% from Apr-2017 onwards also under SHAKTI would tantamount to Change in Law.</p> <p>An enabling provision is required to ensure that the benefit of pass-through of additional cost of Coal, which is being incurred due to shortfall of supplies by CIL, continues after 31-Mar-2017 as it was available before that. Therefore, the reference to Advisory issued by MoP vide OM No.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
				<p>FU-12/2011-IPC (Vol-III) dated 31.7.2013 needs to be removed from the Tariff Policy.</p> <p>Delay in bringing this measure is resulting in huge under-recovery and build up of regulatory assets (backlog). Therefore, it is imperative that this change is implemented as soon as possible.</p>
19.	New Addition	New Addition	<u>The pass-through mechanism shall be applicable for cases where Coal is not available to the project from the allocated Coal block due to any action of Government Instrumentality subsequent to submission of bid and entering into long term/medium term PPA for reasons not attributable to the generating company.</u>	<p>The Ministry of Power in letter dated 16.04.2015 issued a direction under Section 107 to CERC stating that allocation of Coal block shall be treated as Change in law and tariff shall be revised downwards in respect of PPAs signed under Case-1 or DBFOO. This direction may be incorporated in the tariff policy. And similarly, whenever there is allocation/ cancellation of Coal block the same also need to be considered as Change in law and corresponding downward/ upward revision in tariff to be considered.</p>
20.	6.2 (1)	A two-part tariff structure should shall be adopted for all long-term and medium-term contracts to facilitate Merit Order dispatch. According to National Electricity Policy, the Availability Based Tariff (ABT) is also to be introduced at State level. This framework would be extended to generating stations (including grid connected captive plants of capacities as determined by the SERC). The Appropriate Commission shall	A two-part tariff structure should shall be adopted for all long-term and medium-term contracts to facilitate Merit Order dispatch. According to As per National Electricity Policy, the Availability Based Tariff (ABT) is shall also to be introduced at State level. This framework <u>including frequency linked deviation settlement mechanism adopted at national level</u> would be extended to generating stations (including grid connected	<p>Maharashtra is not following frequency linked UI/DSM mechanism even as on today. In Rajasthan, till Dec-2017 tariff payments were made based on actual injection and ABT mechanism was not followed in spite of specific PPA provisions.</p> <p>Regarding Start-up Power there is no consistent approach in various States while CERC regulations/ methodology suggest start up Power to be accounted as UI/DSM, some of the States are insisting for generating companies to take a</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		introduce differential rates of fixed charges for peak and off peak hours for better management of load within a period of two years.	captive plants of capacities as determined by the SERC). The Appropriate Commission shall introduce differential rates of fixed charges for peak and off peak hours for better management of load within a period of two years. <u>Start-up Power supplied by distribution licensee to a generating company shall be adjusted from the Power supplied by the generator.</u>	separate HT connection from DISCOM. Also, there is no consistency in the tariff charged for such connections. Some Commissions stipulate only energy charge for the actual consumption and some two part tariff.
21.	6.2 (3)	In case of Coal based generating stations, the cost of project will also include reasonable cost of setting up Coal washeries, Coal beneficiation system and dry ash handling & disposal system.	In case of Coal based generating stations, the cost of project will also include reasonable cost of setting up Coal washeries, Coal beneficiation system and dry ash handling & disposal system. <u>The costs associated with washing of Coal to comply with the notification issued by the Central Government shall be allowed as a pass through for competitively bid PPAs.</u>	Washing of Coal having ash content more than 34% is a mandatory requirement for distance exceeding 500 km as per MoEF&CC norms. This being Change in law, generating companies have to be appropriately compensated. However, there is inconsistency in the decision of various Commissions.
22.	6.2 (4)	After the award of bids, if there is any change in domestic duties, levies, charges, surcharges , cess and taxes imposed by Central Government, State Governments/ Union Territories or by any Government instrumentality leading to corresponding changes in the cost, the same may be treated as	<u>From 7 days prior to Bid submission date</u> After the award of bids, if there is any change in domestic duties, levies, charges, surcharges , cess and taxes imposed by Central Government, State Governments/ Union Territories or by any Government instrumentality leading to	As per the standard bidding documents, the applicability of change in law starts from 7days before the bid submission date. The suggested change will be necessary to avoid any future litigations between Suppliers & Procurers entering into PPA under Case 1 bidding. A clear cut provision specifying agreed

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		<p>"Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through. subject to approval of the Appropriate Commission. The Appropriate Commission shall lay down the principle and procedure for the same.</p> <p>Provided further that Appropriate Commission shall also allow and establish mechanism for reimbursement of carrying cost for the period from date of occurrence of change in law and till the approval of Change in law by the Commission.</p>	<p>corresponding changes in the cost, the same may be treated as "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through. subject to approval of the Appropriate Commission. The Appropriate Commission shall lay down the principle and procedure for the same.</p> <p>Provided further that Appropriate Commission shall also allow and establish mechanism for reimbursement of carrying cost for the period from date of occurrence of change in law and till the approval of Change in law by the Commission.</p>	<p>mechanisms for reimbursement of Change in Law payments & associated carrying cost will benefit both Supplier and Procurers in cash flow management.</p> <p>State Commissions will take different time line for laying down & implementation of the procedures and Developer should not suffer for the same.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
23.	6.2 (4)	New addition	<p><u>The capital as well as operational expenditure associated with installation of Flue Gas Desulfurization (FGD) and other air pollution control equipment, consequent to the directions given under Environment Clearance or otherwise by Ministry of Environment, Forest and Climate Change, shall be allowed as pass through for all type of projects, where tariff is either fixed by Regulator or it is derived through Competitive Bidding.</u></p>	<p>MoEF&CC has mandated the new emission norms, and in compliance of the same, new air pollution control equipment has to be installed.</p> <p>MoP, vide its letter no. 23/22/2018-R&R dated 30.05.2018, has decided that these implementation of new environment norms is of nature of Change in Law and additional cost on account of the same need to be made pass through.</p> <p>However, the Advisory by MoP is applicable for CERC only. Therefore, to avoid any ambiguity and bring uniformity in application, a clause for such pass through needs to be included in the Tariff Policy also.</p> <p>In view of the above, a new clause shall be added for such costs of installing air pollution control equipment to be made pass-through.</p>
24.	6.2 (5)	<p>The Thermal Power plant(s) including the existing plants located within 50 km radius of sewage treatment plant of Municipality/local bodies/similar organization shall in the order of their closeness to the sewage treatment plant, mandatorily use treated sewage water produced by these bodies and the associated cost on this account be allowed as a pass through in the tariff. Such Thermal plants may also ensure</p>	<p>The Thermal Power plant(s) including the existing plants located within 50 km radius of sewage treatment plant of Municipality/ local bodies/ similar organization shall in the order of their closeness to the sewage treatment plant, mandatorily use treated sewage water <u>of appropriate quality, as specified by respective Thermal Power plants,</u> produced by these bodies and the associated cost on this</p>	<p>We appreciate the intention of the Policy to ensure optimal utilisation of waste water. However, it needs to be noted that the disposal and handling of waste water is the primary responsibility of the Urban Local Body/Municipal Corporation. The policy does not clarify any standard/minimum quality of such treated waste water. This will lead to utilities having to set up tertiary treatment plants at their end and incurring further cost to ensure appropriate quality.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		<p>back-up source of water to meet their requirement in the event of shortage of supply by the sewage treatment plant. The associated cost on this account shall be factored into the fixed cost so as not to disturb the merit order of such Thermal plant. The shutdown of the sewage treatment plant will be taken in consultation with the developer of the Power plant.</p>	<p>account be allowed as a pass through in the tariff. Such Thermal plants may also ensure back-up source of water to meet their requirement in the event of shortage of supply by the sewage treatment plant through existing fresh water connections. The associated cost on this account shall be factored into the fixed cost so as not to disturb the merit order of such Thermal plant. The shutdown of the sewage treatment plant will be taken in consultation with the developer of the Power plant.</p>	<p>The National Tariff Policy mandates utilisation of treated waste water as a means of supporting the Urban Local Body/Municipal Corporation. Hence, to expect that cost incurred for any further treatment of waste water, to ensure it is of adequate quality, is to be borne by the utility and in turn its customers is not appropriate.</p> <p>In this background, it is suggested that the respective ULB/Municipal Corporation should be mandated to also set up the tertiary treatment plant and should charge the cost incurred in terms of variable cost from the end user, in proportion to their usage.</p> <p>Further, regarding back up source of water, it is suggested that existing fresh water connection of Thermal Power plants/utilities should be continued as backup for at least three years.</p>
25.	6.4 (i)	<p>Provided further that in case the obligated entity is an industry with captive generation, the consumption from captive generation from waste heat gases as a byproduct of the industrial process shall also be deducted from total consumption;</p> <p>Provided further that in case of consumption from cogeneration from</p>	<p><u>Provided further that in case of consumption from cogeneration from sources other than renewable sources, the same shall not be excluded from applicability of RPOs to arrive at base consumption for of RPO requirement and compliance.</u></p> <p><u>Provided further that in case the obligated entity is an industry with captive generation, the</u></p>	<p>The proposed amendment allowing deduction of generation from waste heat gases produced as byproduct in Industries from total consumption for obligated entities is a welcome step. However, the subsequent proviso restricts consumption from Cogeneration based on sources other than renewable sources hence defeats purpose of utilization of waste heat gases for generation. The contradiction may be removed by suggested sequencing of provisos.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		sources other than renewable sources, the same shall not be excluded from applicability of RPOs to arrive at base consumption for of RPO requirement and compliance.	<u>consumption from captive generation from waste heat gases as a byproduct of the industrial process shall also be deducted from total consumption;</u>	
26.	6.4 (iii) and (iv)	Clause deleted	<p><u>(iii) It is desirable that purchase of energy from renewable sources of energy takes place more or less in the same proportion in different States. To achieve this objective in the current scenario of large availability of such resources only in certain parts of the country, an appropriate mechanism such as Renewable Energy Certificate (REC) would need to be promoted. Through such a mechanism, the renewable energy based generation companies can sell the electricity to local distribution licensee at the rates for conventional Power and can recover the balance cost by selling certificates to other distribution companies and obligated entities enabling the latter to meet their renewable Power purchase obligations. The REC mechanism should also have a solar specific REC.</u></p> <p><u>(iv) Appropriate Commission may also provide for a suitable regulatory framework for encouraging such other emerging renewable energy</u></p>	<p>The purpose of introducing REC mechanism was to address the mismatch between availability of Renewable Energy sources and meeting the RPO by obligated entities, across different states. It is encouraging to note that in last fiscal total 1.62 Crore RECs (Non-Solar) were redeemed and discovered price in recent trades of REC market has moved up slightly from long standing floor price. It is pertinent to mention that as on today, there are several obligated entities (including State DISCOMs) who are yet to fulfill the RPO obligations and still few new projects are being registered in REC mechanism. Hence, still there is a need to keep promoting REC mechanism in order to help obligated entities to fulfill their RPO as well as ensuring cash flow to RE Generators who made investments in RE projects.</p> <p>REC mechanism was introduced to improve the financial viability of RE projects by providing a revenue stream independent of the Discoms. The inherent requirement for this scheme to be successful is the existence of a deep and vibrant REC exchange market and greater liquidity.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
			<p><u>technologies by prescribing separate technology based REC multiplier (i.e. granting higher or lower number of RECs to such emerging technologies for the same level of generation). Similarly, considering the change in prices of renewable energy technologies with passage of time, the Appropriate Commission may prescribe vintage based REC multiplier (i.e. granting higher or lower number of RECs for the same level of generation based on year of Commissioning of plant).</u></p>	<p>In this regard, it is suggested that the REC regulations provision which provides for self-retention of RECs for meeting RPO of the entity be extended to cover companies having common promoter also and retention be permitted between such companies. This is even more relevant in the present investment structure where several renewable projects are undertaken through subsidiaries. The relation as specified in several competitive bidding documents for "Affiliate" may be used for considering the eligible investor.</p> <p>This would enable existing RE projects as well as new RE capacities to come up as these projects would have a secured buyer for the RECs generated thus making them financially viable.</p> <p>REC mechanism was introduced to improve the financial viability of RE projects by providing a revenue stream independent of the Discoms. We submit that simply deletion of these clauses suddenly would create a lot of gaps and misinterpretations in the sector. The major threats which we perceive by moving away from REC mechanism would be:</p> <p>a) The projects which have been developed for injecting Power in the grid at APPC and in turn generating RECs for selling in the market would be completely unviable if REC mechanism is withdrawn.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
				<p>b) Also, there is currently huge inventory of RECs. Inadequate mechanism to exhaust this inventory will cause huge adverse impact on the Generators.</p> <p>Hence, appropriate resolution mechanism of these issues is required.</p>
27.	6.4 (2)	<p>States shall endeavor to procure Power from renewable energy sources through competitive bidding to keep the tariff low, except from the waste to energy plants. Procurement of Power by Distribution Licensee from renewable energy sources from projects above the notified capacity shall be done through competitive bidding process, from the date to be notified by the Central Government.</p> <p>However, till such notification, any such procurement of Power from renewable energy sources projects may be done under Section 62 of the Electricity Act, 2003. While determining the tariff from such sources, the Appropriate Commission shall take into account the solar radiation and wind intensity which may differ from area to area to ensure that the benefits are passed on to the consumers.</p>	<p>States shall endeavor to procure Power from renewable energy sources through competitive bidding to keep the tariff low, except from the waste to energy plants. Procurement of Power by Distribution Licensee from renewable energy sources from projects above the notified capacity shall be done through competitive bidding process, from the date to be notified by the Central Government <u>and such tariffs should be necessarily adopted by Appropriate Commission within a period of 30 days.</u></p> <p>However, till such notification, any such procurement of Power from renewable energy sources projects may be done under Section 62 of the Electricity Act, 2003. While determining the tariff from such sources, the Appropriate Commission shall take into account the</p>	<p>There has been a spate of cancelled bid processes in solar where the tariffs discovered have been bettered by a subsequent tender or has not been as low as discovered in another state. The sanctity of a tender process needs to be maintained.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
			solar radiation, and wind intensity and extant capital costs which may differ from area to area to ensure that the benefits are passed on to the consumers through cost reflective tariffs.	
28.	6.4 (5)	Provided further that in case any existing Coal and lignite based Thermal Power generating station, with the concurrence of Power procurers under the existing Power Purchase Agreements, chooses to set up additional renewable energy generating capacity, the Power from such plant shall be allowed to be bundled and tariff of such renewable energy shall be allowed to be pass through by the Appropriate Commission. The Obligated Entities who finally buy such Power shall account towards their renewable purchase obligations.	Provided further that in case any existing Coal and lignite based Thermal Power generating station, with the concurrence of Power procurers under the existing Power Purchase Agreements, chooses to set up additional renewable energy generating capacity, the Power from such plant shall be allowed to be bundled and tariff of such renewable energy shall be allowed to be pass through by the Appropriate Commission. The Obligated Entities who finally buy such Power shall account towards their renewable purchase obligations.	This clause should be deleted. This provision has been there for last 3 years and has not seen any action. In fact, RE tariffs have become so low in the last 3 years, that they do not need to be bundled with Thermal Generation anymore.
29.	New Addition	New Addition in 6.4	(8) <u>In order to ensure Solar, onshore and offshore wind potential is developed efficiently and economically, the transmission system for these zones shall be planned and developed competitively and ahead of</u>	GoI has set ambitious target of achieving 175 GW of RE by 2022 and ensuring 24x7 supply of adequate and reliable Power to all by 2019 and has launched various targeted programs like SAUBHAGYA, UDAY, URJA etc. to meet this objective. Many of the proposed amendments to the Tariff Policy are aimed at driving towards these objectives. Access to clean and low-cost

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
			<p><u>requirement to avoid a situation of renewable projects in these zones getting delayed, stranded or stressed on account of inadequate/ delayed transmission evacuation system.</u></p> <p><u>The competitive bidding framework for developing transmission for RE evacuation should provide for strong incentive and penalty mechanism. The framework should ensure development of transmission systems with progressive reduction in time for completion aligned with the completion schedules of renewable sources of energy.</u></p>	<p>energy from renewable sources is a key for the Govt to meet these targets and its INDCs commitments and emerge as the clean energy capital of the world.</p> <p>The Onshore wind and solar development program has been a success and has seen immense interest from the developers, with every bid called by SECI, being over-subscribed multiple times. Recently, NIWE has invited Expression of Interest for development of the first 1000 MW offshore wind farm off the coast of Gujarat and received 35 expressions of interest from domestic as well as international players. This goes to show that there is keen interest from the developers in offshore and they see India as the next growth story.</p> <p>Adequate transmission capacity is a must to achieving the targets set by GoI and the Clause 7.1 of the Tariff Policy very rightly states that the objective is to "ensure optimal development of the transmission network ahead of the generation". To ensure that the onshore and offshore RE potential is developed efficiently and economically, it is necessary to have adequate and sufficient transmission network ready for evacuating this Power. It is imperative to have a robust transmission planning framework in place for early identification and award of specific schemes for evacuation and system augmentation specially for RE grid integration.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
				<p>It is suggested that transmission system for identified solar and wind zones including off shore wind zones be planned and developed competitively and ahead of requirement to avoid a situation of these assets getting delayed, stranded or stressed on account of inadequate/ delayed transmission evacuation system.</p> <p>The framework for developing transmission for RE evacuation should provide for strong incentive and penalty mechanism and promote development of transmission systems with progressive reduction in time for completion to align the completion schedules of transmission system with that of the renewable generating stations.</p>
30.	7.1 (4)	<p>In view of the approach laid down by the NEP, prior agreement with the beneficiaries would not be a precondition for network expansion. CTU/STU should undertake network expansion after identifying the requirements in consonance with the National Electricity Plan and in consultation with stakeholders and taking up the execution after due regulatory approvals. For smooth operation of the grid, efforts should be made to develop transmission system ahead of Generation.</p>	<p>In view of the approach laid down by the NEP, prior agreement with the beneficiaries would not be a precondition for network expansion. CTU/STU should undertake network expansion after identifying the requirements in consonance with the National Electricity Plan and in consultation with stakeholders and taking up the execution after due regulatory approvals through Tariff Based Competitive Bidding Guidelines. For smooth operation of the grid, efforts should be made to</p>	<p>CTU/STUs should limit their role to planning network expansion and not execution. Execution should be through tariff based bidding only.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
			develop transmission system ahead of Generation.	
31.	7.1 (7)	While all future inter-state transmission projects shall, ordinarily, be developed through competitive bidding process, the Central Government may give exemption from competitive bidding for (a) specific category of projects of strategic importance, technical upgradation etc. or (b) works required to be done to cater to an urgent situation on a case to case basis.	While all future inter-state transmission projects shall, ordinarily, be developed through competitive bidding process, the Central Government may give exemption from competitive bidding for (a) specific category of projects of strategic importance technical upgradation etc. or (b) works required to be done to cater to an urgent situation on a case to case basis.	<p>After introduction of competition in transmission sector, the country witnessed many changes in terms of growth, technology, faster execution time and lower tariff ultimately benefiting end user/consumer.</p> <p>Despite the presence of enabling provisions, the ground reality is that the majority of Central & State projects are still being awarded through nomination route. It may be noted that none of the SERCs has determined the threshold value. In the last two meetings of the Empowered Committee, only 15 projects out of the 47 projects approved by the committee have been recommended through Tariff Based Competitive Bidding (TBCB) route.</p> <p>Private participation through TBCB route has led to lower tariffs, faster implementation and efficient project management. The intent of the Tariff Policy is also not to treat TBCB route as exception but norm.</p> <p>It is submitted that private entities have demonstrated their capability in executing transmission projects under all conditions and have earned their right to be considered on par with Central PSU. With this background, the provision be modified and exemption from</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
				competitive bidding be limited to projects of strategic importance.
32.	7.3 (1)	Financial incentives and disincentives should be implemented for the CTU and the STU around the Key Performance Indicators (KPI) for these organizations. Such KPIs would include efficient network construction, system availability and loss reduction.	Financial incentives and disincentives should be implemented for the CTU and the STU licensees around the Key Performance Indicators (KPI) for these organizations. Such KPIs would include efficient network construction, system availability and loss reduction.	All license holders should be provided with financial incentives and disincentives; and not only CTU and STUs.
33.	New Addition	New Addition after 7.4	<p>Cross-border Transmission line:</p> <p><u>Development of cross border transmission line between the pooling stations within India till Indian border shall be undertaken via a competitive bidding framework.</u></p>	<p>Present draft Regulations on Cross Border Trade of Electricity states only CTU is responsible for implementing of cross border transmission link between the pooling stations within India till Indian border. Whereas, the guidelines issued by MoP for Cross Border trade of electricity dated Dec-2016 are silent on the agency to implement the cross border link.</p> <p>MoP guidelines only state inter-connection between 2 pooling stations of different countries shall be monitored and controlled by respective system operators with proper co-ordination and transmission line between 2 pooling stations will be planned jointly by the nodal transmission agencies of both countries.</p> <p>In view of up to 30% lower tariffs discovered through competitive bidding process, it is suggested that the development of cross border transmission line between the pooling stations</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
				within India till Indian border should be undertaken through competitive bidding process.
34.	7.4 (1)	The Central Commission may introduce lay down the norms and framework for ancillary services, including the method of sharing the charges, necessary to support the Power system or grid operation for maintaining Power quality, reliability and security of the grid.	The Central Commission may introduce lay down the norms and framework for ancillary services, including the method of sharing the charges, necessary to support the Power system or grid operation for maintaining Power quality, reliability and security of the grid.	With increasing Generation for variable sources like renewable and increasing load variations, the availability of Ancillary Services would be critical. The provision supporting development of market based ancillary services needs to be included in the tariff policy. The requirement of ancillary services would be at regional level as well as at state level, thus the central as well as state Commissions should be mandated to issue necessary regulation for operationalizing ancillary services market.
35.	8.1 (4)	The tariff shall be a two part tariff with the capital costs being reflected in the fixed charges linked to capacity and the energy charges reflecting the average purchase price of Power with administrative margins. Licensees may have the flexibility of charging lower tariffs than approved by the State Commission if competitive conditions require so without having a claim on additional revenue requirement on this account in accordance with Section 62 of the Act.	The tariff shall be a two part tariff with the capital costs of <u>Distribution Network, Capacity Charges payable as per the PPA and the regulatory assets approved by appropriate Commission for recovery being reflected in the fixed charges linked to capacity and the energy charges reflecting the average purchase price of Power with administrative margins.</u> Licensees may have the flexibility of charging lower tariffs than approved by the State Commission if competitive conditions require so without having a claim on additional revenue requirement on this	There are two types of charges generally levied by a Discom through tariff viz a) Fixed Tariff in the form of demand charges (in Rs/KVA/Month) or Fixed Charges (in Rs/Month) and ii) Variable Tariff in the form of Energy Charges, FAC, Regulatory Asset Charge etc. In this regard it needs to be emphasised that the duty of the Discom, inter alia, is to make the Power available to the consumers for 24x7 duration. In this pursuit, the Discom ties up Power from various sources on a long term basis which reduces the exposure of consumers to the vagaries of the Power prices as well as to the availability. However, in doing so, it has to enter into a Power purchase agreement with a Generator under a tariff structure which

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
			<p>account in accordance with Section 62 of the Act.</p>	<p>envisages payment of capacity charges which are fixed in nature - i.e. they are payable, notwithstanding the actual drawl. In addition, due to mounting regulatory assets, the tariff of Discom includes a part which is designed to recover the past regulatory assets.</p> <p>It is submitted that all the consumers who have sought Open Access have been consumers of the Discom in the past and have contributed to the Regulatory Assets.</p> <p>We observe that many Open Access consumers (mostly partial Open Access) including captive consumers avail of Open Access by maintaining the Contract Demand which is much higher than the Power they wish to draw during open access. They are incentivized to do so since the Demand Charges are small and do not reflect the cost which are fixed in nature (mentioned above) and borne by the Discom. The Fixed Charge of the Tariff to the consumer needs to be corrected to reflect expenses which are fixed in nature and would not vary with the sales of the Discom.</p> <p>Hence while the amendment is proposing that the capital cost is reflecting the fixed charges in the tariff of a consumer, we wish to submit that fixed charges (like Demand Charges) not only should reflect the a) capital cost of the Distribution Network but it should also reflect the b) capacity charges envisaged in the PPA</p>

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				<p>entered and c) Regulatory Assets that are being recovered.</p> <p>This approach will be fair and just both to the Discoms as well as to the open access consumers.</p>
36.	8.2.1 (2)	Provided further that the AT&C losses shall be brought down to a level of 10% within 3 years of date on which AT&C loss level of 15% is to be achieved.	<p>Provided further that the AT&C losses shall be brought down to a level of 10% within 3 years of date on which AT&C loss level of 15% is to be achieved.</p> <p><u>Provided further to encourage the utility achieving AT&C loss level below 10% shall be eligible for retaining 50% of gains due to AT&C losses below 10% for the respective year as an incentive.</u></p>	<p>The policy guidelines target 10% AT&C losses within 3 years, however there is no mention of Discoms who with their effort would like to achieve AT&C losses below 10%.</p> <p>The proposed addition would incentivize Discoms to achieve AT&C losses below 10%, once the target has been achieved.</p>
37.	8.2.1 (3)	The Appropriate Commission shall determine the tariff without taking into account any subsidy components. Any subsidy to be given to any category of consumers shall be given by way of Direct Benefit Transfer directly into their accounts.	The Appropriate Commission shall determine the tariff without taking into account any subsidy components. Any subsidy to be given to any category of consumers shall be given by way of Direct Benefit Transfer directly into their accounts, <u>upon confirmation from Discom about receiving the payment of respective consumers. In situations where, there is a delay in payment by such consumer for</u>	<p>This shall also be suitably reflected in 8.3 (1) and 8.3 A (10).</p> <p>The current practice of subsidy works in a manner that Discoms supply Power to the subsidized categories and subsequently get the bill amount recovered by way of Subsidy from the respective state govt. upon producing certain necessary documents.</p> <p>While, we appreciate the proposal of DBT, we would submit that sudden shifting from this mechanism to the mechanism of DBT, may lead</p>

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			<p><u>a period beyond two (2) months, Government shall initiate reimbursement of such subsidy to the Discom.</u></p>	<p>to increased commercial losses for Discom – consumers may not pay in spite of availing DBT leading to deteriorated collection efficiency.</p> <p>Hence, we envisage two probable ways for addressing this issue:</p> <p>a) The DBT may be disbursed to the respective consumers only upon getting some substantial evidence of their making payment to the respective Discom or upon confirmation from Discom. In case, there is delay in payment beyond two months by consumer, the subsidy should be paid to the Discom like in earlier practice.</p> <p>b) Else, such commercial losses shall be allowed to the Discom at the time of determining its ARR.</p>
38.	8.2.2	<p>Recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding five seven years. The State Commission may specify the trajectory for the same.</p>	<p>Recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding five seven years. <u>Forum of Regulators should evolve the mechanism for computation of Carrying Cost including applicable rate of interest and its recovery so as to ensure uniformity in the approach of all SERCs.</u> The State Commission may specify the trajectory for the same.</p>	<p>It is pertinent to note that Gap/ (Surplus) in Revenue is recognized by the SERCs in its Tariff Order. Thus, the amount of Gap / (Surplus) and period of delay in recovery of the entitled gap/ (surplus) for the utility is approved by the SERC in its Tariff order only. Therefore, the only the applicable interest rate for the period of delay is to be considered by the SERC for the purpose of computation of carrying cost. However, there is no uniformity in the approach w.r.t. applicable interest rate across the various Commissions. Therefore, there is a need to have uniform approach in terms of interest rate along with the</p>

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				<p>methodology for computation of carrying cost along with its recovery.</p> <p>The principle of Time Value of Money is settled position of law acknowledged in catena of judgments by various Courts. Even the Hon'ble Appellate Tribunal for Electricity has also expounded the principle of Carrying Cost in respect of time value of money due to delay in recovery of entitled revenue. The Hon'ble Tribunal has clearly spelt out in its judgement in Appeal No. 308 of 2013 that the gap/ (surplus) in itself is approved by the respective Commissions and calculating interest thereon is just a mathematical calculation based on the principles of time value of money. The same is to be compensated to the utility based on a mathematical calculation on the gap/ (surplus) recognized by the Commissions with due recognition for the delay period concerned. This very principle has been duly incorporated by the Central Electricity Regulatory Commission (CERC) in its tariff regulations since the beginning while compensating utilities at the time of truing-up.</p> <p>However, it is observed that unrecovered carrying cost, which is legitimate entitlement for the utility and also attracts the principle of time value of money, is dealt with ambiguously by various SERCs. There is a need to have uniformity in approach while dealing with the approved Gap/(Surplus) and carrying cost as</p>

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				<p>both are approved to be earned through revenue by the utility.</p> <p>Therefore, it is proposed to also add proviso with reference to recovery of carrying cost in the amendment so as to remove any ambiguity.</p>
39.	8.3 (5)	<p>While fixing tariff for agricultural use, the imperatives of the need of using ground water resources in a sustainable manner would also need to be kept in mind in addition to the average cost of supply. Tariff for agricultural use may be set at different levels for different parts of a state depending on the condition of the ground water table to prevent excessive depletion of ground water. Section 62 (3) of the Act provides that geographical position of any area could be one of the criteria for tariff differentiation.</p>	<p>While fixing tariff for agricultural use, the imperatives of the need of using ground water resources in a sustainable manner would also need to be kept in mind in addition to the average cost of supply. Tariff for agricultural use may be set at different levels for different parts of a state depending on the condition of the ground water table to prevent excessive depletion of ground water. Section 62 (3) of the Act provides that geographical position of any area could be one of the criteria for tariff differentiation.</p> <p><u>Additional innovative measures for exploiting RE Power for pumps like using solar Power for pumps in a net metered mode will encourage farmers to use pumps optimally and also create an alternate revenue stream for farmers.</u></p>	<p>Free electrical Power for agriculture has played havoc with ground water levels. Solarization of pumps with net metering will encourage farmers to use pumps only for the duration required and will also create surplus revenue for farmers.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
40.	8.3 (8)	<p>In order to promote electric mobility and for enhancing energy security, SERCs may lay down appropriate tariff framework for electricity supply from the Discom to the charging stations such that:</p> <p>(a) Tariff shall be less than or equal to the average cost of supply determined based on AT&C loss level of 15% or actual, whichever is lower, and (b) there shall be single part tariff for this purpose in the initial 3 years.</p>	<p>In order to promote electric mobility and for enhancing energy security, SERCs may lay down appropriate tariff framework for electricity supply from the Discom to the charging stations such that:</p> <p>(a) Tariff for first three years shall be less than or equal to the average cost of supply determined based on AT&C loss level of 15% or actual, whichever is lower, and (b) there shall be single part tariff for this purpose in the initial 3 years.</p>	<p>While it is desirable that Electric Vehicles and Charging stations should be encouraged, it may not appropriate to have tariffs below the cost of supply even for such categories. Hence in our view, the subsidised tariff (i.e. less than Average Cost) may be made applicable for the first 3 years and thereafter it should be charged the average cost of supply. The draft policy may be amended to that extent.</p>
41.	8.3 A (8)	<p>For consumers who are having suitable meters, the time-of-the-day (ToD) and two part tariffs shall be introduced not later than 1st April 2019. This scheme should automatically be extended to other consumers as and when they get meters suitable for ToD and two part tariff.</p>	<p>For consumers who are having suitable meters, the time-of-the-day (ToD) and two part tariffs shall be introduced not later than 1st April 2019. This scheme should automatically be extended to other consumers as and when they get meters suitable for ToD and two part tariff. <u>Discoms shall make the meters available to all consumers within two (2) years from 1st April 2019.</u></p>	<p>Keeping the end open might delay the process of making meters available to the consumers, so we submit that Discom shall be made responsible to make the meters available and get them installed within a timeframe of two years.</p>
42.	8.5.8	<p>In order to avoid frequent changeover of customers between supply from Open Access and that</p>	<p>In order to avoid frequent changeover of customers between supply from Open Access and that</p>	<p>We request you clarify that the eight/ four consecutive hours mentioned above should be the duration on a daily basis.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale for the Suggestions
		<p>from the incumbent distribution licensee, such customers must schedule Power on open access for at least eight consecutive hours from conventional sources and four consecutive hours from renewable sources.</p>	<p>from the incumbent distribution licensee, such customers must schedule Power on open access for at least eight consecutive hours from conventional sources and four consecutive hours from renewable sources.</p> <p><u>Provided, drawl of Power from incumbent distribution licensee shall be informed by the customers at least two days prior from day of drawl.</u></p>	<p>Further we wish to submit that the Discom arranges for Power purchase under "Day Ahead" basis. It plans it purchase on the presumption that such Open Access consumer would make arrangement for its own Power during the next day. However, if such Power is actually not available for Open Access consumer, then such Power has to made available by the Discom, which may be a bit too late. Hence the Discom has to carry out load shedding for balancing or has to pay charges under the DSM mechanism. This is not desirable.</p> <p>In light of the above, we request you kindly add a proviso that non-availability of open access Power by OA consumer should be intimated to the Discom at least two days earlier.</p>
43.	Other suggestions	Other suggestions	-	<ul style="list-style-type: none"> In terms of the implementation plan finalised by CEA, Generators are required to comply with new norms for Thermal Power Plant issued by MoEF&CC vide notification dated 07.12.2015. As per the CEA phasing plan, the timeline prescribed for compliance of norms by all the Thermal Power Generators is 2022-23. <p>In this context, the installation of pollution control equipment to comply with the new norms would result in increase in fuel charges of the plant due to additional auxiliary consumption. Therefore, the</p>

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				<p>increase in fuel charges may impact position of the plant in Merit Order Dispatch. This would place the plants which are required to implement new norms in the next 1-2 year at a disadvantaged position against those who are required to comply with new norms in 2022-23.</p> <p>In order to address the above issue, suitable provision may be incorporated in the Tariff Policy to consider Fuel Charges without the impact of new norms in the Merit Order Dispatch till 2022-23.</p> <ul style="list-style-type: none"> • Since RPO excludes consumption from Hydro Power, Hydro Power Procurement Obligation (HPPO/ HPO) should be prescribed separately by MoP. • Cost of energy storage facilities, if the same can be added to the tariff for renewable generating stations. • Expenditure towards CSR, local area development should be allowed to be built up in the tariff. • Under Transmission, the issue of Open Access charges (LTA PoC charges) be linked to actual, monthly PLF of the Hydro Project needs to be captured. Ad per current policies, the LTA or Hydro is charged on a

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				<p>Rs./ MW/ Month basis which has much larger impact on overall Transmission charges for Hydro projects, given its low PLF on an annual basis. This puts it into a disadvantaged position compared to other Projects with much higher PLF. Considering this, such charges were waived for solar and wind projects. The least that should be done for Hydro Power is to link it to a month-wise PLF so that the actual landed cost is established.</p>

Annexure-I**Green Field Thermal Projects Commissioned after 2010**

Station	Capacity Allocated to State (MW)	Plant Capacity (MW)	Ownership	Variable Cost (Rs/Unit)	Fixed Cost (Rs/Unit)	Total Cost (Rs/Unit)
NTPC SOLAPUR	15	660	Central ISGS	3.14	2.16	5.30
NTPC BONGAIGAON	17	250	Central ISGS	2.92	2.70	5.62
NTPC BONGAIGAON	17	250	Central ISGS	2.97	3.95	6.92
NTPC BONGAIGAON	12	250	Central ISGS	2.97	3.95	6.92
NTPC BONGAIGAON	131	250	Central ISGS	2.97	3.95	6.92
NTPC BONGAIGAON	12	250	Central ISGS	2.97	3.95	6.92
NTPC BONGAIGAON	11	250	Central ISGS	2.97	3.95	6.92
KUDGI STPS	179	800	Central ISGS	3.72	1.52	5.24
KUDGI STPS	137	800	Central ISGS	3.62	2.20	5.82
KUDGI STPS	41	800	Central ISGS	3.67	2.24	5.91
KUDGI STPS	471	800	Central ISGS	3.62	2.30	5.92
BARH STG-II	184	1320	Central ISGS	2.35	1.76	4.11
BARH STG-II	953	1320	Central ISGS	2.30	1.87	4.17
BARH STG-II	19	1320	Central ISGS	2.53	1.87	4.39
BARH STG-II	89	1320	Central ISGS	2.82	2.86	5.68
SASAN UMPP*	558	3960	Private	1.15	0.17	1.32
SASAN UMPP	465	3960	Private	1.24	0.15	1.39
SASAN UMPP	93	3960	Private	1.20	0.20	1.40
SASAN UMPP	419	3960	Private	1.27	0.13	1.40
SASAN UMPP	419	3960	Private	1.27	0.17	1.44
SASAN UMPP	372	3960	Private	1.29	0.17	1.46
SASAN UMPP	1396	3960	Private	1.44	0.17	1.61
CGPL MUNDRA UMPP	475	4000	Private	1.31	0.91	2.22
CGPL MUNDRA UMPP	380	4000	Private	1.51	0.90	2.41
CGPL MUNDRA UMPP	760	4000	Private	1.60	0.90	2.50
CGPL MUNDRA UMPP	380	4000	Private	1.69	0.90	2.59
CGPL MUNDRA UMPP	1805	4000	Private	1.76	0.90	2.66
LANCO (ANPARA-C)	1080	1080	Private	1.69	1.03	2.72
NABHA POWER LTD. RAJPURA			Private	2.26	1.53	3.79
TALWANDI SABOO	1980	1980	Private	2.85	1.20	4.05
JHAJJAR(CLP)	1320	1320	Private	3.17	1.00	4.17
KAWAI (ADANI)	1200	1320	Private	1.98	1.37	3.35
TIRODA (UNIT-1,4,5)	1325	1980	Private	2.38	1.37	3.75
TIRODA (UNIT-1,4,5)	440	1980	Private	2.44	1.41	3.85
TIRODA (UNIT- 2,3)	1320	1320	Private	1.82	1.11	2.93

Source: <http://meritindia.in/>

*VC for Sasan may not be considered as it is a mine linked plant.