

## **APP Inputs/ Submissions/ Comments for Feedback for Review of Tariff Policy, 2016**

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### **Section I: General Comments**

**A review of Tariff Policy 2016 shows that many measures – tariff of all new Generation and Transmission projects of company owned or controlled by Central Government shall continue to be determined on basis of competitive bidding, Open access provisions, installation of smart meters, procurement of Power competitively by Discoms, pass through of legitimate and incontestable change in law factors (such as coal terminal surcharge, clean energy cess etc.) to stem under-recoveries – have not been implemented by the concerned parties.**

It is observed that in case of non-compliance of mandated measures, there is no provision/ mechanism to ensure its compliance. The Regulators responsible for ensuring its implementation have remained mute spectators to this non-compliance by Discoms and Central Generating Units.

There is no rationale of having provisions without any framework to ensure that the policy provisions are complied with. Therefore, a mechanism needs to be evolved to ensure that mandated measures are followed by all stakeholders.

The evolving landscape of Power sector and current predicament of progressively increasing un-requisitioned Power, despite huge deficit in access to Power (No access to Electricity for 40.5 million households), calls for amending/ formulating new measures to meet the emerging realities.

Recently, the Hon'ble Minister of State (I/C) for Power and New & Renewable Energy has made a few key pronouncements in the recent months, aimed at ensuring reliable and affordable 24x7 Power for all. Some of these are –

- Penalising Load Shedding without legitimate reasons.
- Ensuring all states tie up Power for meeting their requirement for 24x7 Power for All.
- Limiting AT&C losses to 15% for Tariff fixation.
- Tariff Rationalisation: Reducing number of slabs and capping cross subsidy, differential base load and peak tariffs.
- Direct Benefits Transfer: DBT Scheme to be implemented for subsidy.
- Installing Smart Meters and Prepaid Meters: To reduce human intervention.

These are transformative measures, which if are carried through, will revive demand, and put the sector on a sustainable revival path. The National Tariff Policy is the most appropriate instrument to make these pronouncements a part of the policy/ regulatory framework.

If the above suggestions are not incorporated in a binding framework, through Tariff Policy, the Minister's pronouncements may end only as expressions of intent. Therefore, it is imperative that the Tariff Policy 2016 is revised at the earliest incorporating the transformative pronouncements.

Suggestions for necessary amendments (clause wise), in the existing framework, and new provisions that are required to meet emerging challenges, are detailed in the following section.

**Section II: Specific Clause-wise Comments**

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
1.	4.0 (a)	Ensure availability of electricity to consumers at reasonable and competitive rates;	Ensure availability of <b>reliable 24x7</b> electricity to <b>all</b> consumers at reasonable and competitive rates;	Reliability of electricity supply must form part of availability of electricity and should be ensured through an effective incentive/ penalty mechanism for the Discoms.
2.	4.0 (h)	Facilitate supply of adequate and uninterrupted power to all categories of consumers;	<del>Facilitate</del> <b>Ensure</b> supply of adequate and uninterrupted power to all categories of consumers;	With the GoI target of 100% electrification of villages and households and providing 24x7 power supply, the Tariff Policy's objectives should be to ensure uninterrupted power to all consumer categories.  For this, it is necessary to ensure that all states tie up Power for meeting their requirement for 24x7 Power for All.
3.	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 controlled by the State 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.	All future requirement of power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects <del>or where there is a company owned or controlled by the State Government as an identified developer</del> and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by <b>public and</b> private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity or where procurement of	The tariff policy should strive towards providing a level playing field to all participants in an equitable manner. The policy should not discriminate against private enterprises over public enterprises. The provision of permitting expansion of existing projects should be equitable to private as well as public developers.  It is observed that Central Generating Stations are not in compliance of this measure, and continue to set up new capacities under Section 62, based on MOUs, and thereafter moving CERC for tariff fixation. As the aim of the provisions is to ensure most price competitive Power for consumers, it is suggested that the tariff under

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			<p>power is considered necessary from an identified source for maintaining security of supply, for promoting a renewable energy technology till its tariff becomes competitive and sources of power required for integration of renewable energy sources like pump storage hydro-electric plants, battery storage, etc..</p>	<p>Section 62 should pass the test of being most price competitive.</p> <p>To ensure that the concerned states are not deprived of cheaper power, PFC could aggregate the demand of multiple states and call for bids for supply of Power on timelines matching with commissioning schedules of any new proposed capacity.</p> <p>The present provision exempts state owned generating company from participating and developing new projects under competitive bids. The EA 2003 provides for two modes of procurement of power by Discoms i.e. under Section 62 and Section 63. The option of approving procurement of power by the Discoms should be left to the discretion of the State Regulators. It is possible that power procurement under Section 62 may work out to be cheaper than through Section 63. However, the preferred route for power procurement should be Section 63. Discoms may be permitted to procure power under Section 62 under certain circumstances and requirements, for e.g. from peaking/ balancing plants, promoting new technology (RE and Ultra Super Critical), load end generation with islanding requirement for enhancing reliability etc.</p>

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				Further, in the cases of thermal power plants with expiring PPAs but with balance useful life, should be permitted to renew their PPAs under Sec 62.
4.	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 <b>in addition to expansion of 100% capacity as mention in proviso 1 of para 5.1</b> by the Distribution Licensees of that State for which the tariff may be determined under Section 62 of the Electricity Act, 2003.	The policy lacks clarity with regards to power offtake from expanded capacities. In connection to Proviso 3, 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 proviso 1 of para 5.2.
5.	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 6 <sup>th</sup> January, 2006 unless otherwise specified by the Central Government on case to case basis.		NTPC, has not participated in even a single competitive bidding project in the past few years, even with the sunset clause as per the previous Tariff Policy 2006, regarding competitive bidding tariff fixation for public sector projects. NTPC continues to work on cost plus basis, and some projects fixed cost ranges as high as Rs. 7.62 per unit (Bara-I), and Rs. 7.39 per unit (MUNPL Meja).

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				<p>A suggested way-forward can be that PFC be mandated to aggregate the demand from all states, and call for bids to meet the projected demand aligned with timelines of any new proposed capacity. In this way, the end consumers are being denied the benefit of lowest discovered tariff.</p> <p>Recently a trend has been noticed, that the Central Government companies are circumventing this clause entering into JV with State generating companies, where is the tariff is to be determined under Sec 62. NTPC and NLC have entered into JV agreements with the states of UP, Bihar, Telangana etc. for setting up new thermal power plants whose tariff would be determined by under Sec-62. This is not in the right spirit of competitiveness that the Electricity Act and Tariff Policy stipulate.</p>
6.	5.4	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 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	Provided that the procurement of power from coal washery reject based projects developed by Central/ State PSUs, Joint Venture between Government Company and <b>private company and wholly by a private company</b> , can be done under Section 62 of the Act.	MoEF has mandated supply of and use of coal with less than 34% ash for thermal power plants, public as well as private, located 500 km away from the pit head. The washery rejects so generated would be used in the coal washery reject based projects. These projects can be developed under Central/State PSUs, JV or by private developers. Since these plants are developed for the specific purpose of utilizing washery rejects, the tariff for these projects should be permitted to be determined under Sec

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		share capital, can be done under Section 62 of the Act.		<p>62 or discovered under Sec 63, irrespective of the ownership of the project.</p> <p>In the context on encouraging optimal utilization of resources and development of clean coal energy for the protection of environment, it would be appropriate to extend the facility of power procurement under Section 62 from any coal washery reject based power generating projects irrespective of the nature of ownership. Tariff Policy should ensure even playing field and common rules for private as well as public companies.</p>
7.	5.5	The developer of a hydroelectric project, including Pumped Storage Plant (PSP), would have the option of getting the tariff determined by the Appropriate Commission for the power to be sold through long term Power Purchase Agreements (PPAs) on the basis of performance based cost of service regulations if the following conditions are fulfilled:		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. Further, due emphasis should be given for development of pump storage schemes, especially in view of the balancing and peaking support that they can provide in the increase RE generation scenario.
8.	5.5 (a)	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	The Appropriate Commission is satisfied that the project site has been allotted to the developer by the concerned State Government after following a transparent <del>two stage</del> <del>process</del> procedure as per the policy of the State Government. <del>The first stage</del>	The hydro sector has not grown at the pace as seen in thermal or RE sector primarily due to low appetite for hydro power from Discoms, which is attributable to high hydro tariffs. Delays in clearances, provision of free power for home State, higher R&R costs, long gestation period and geological surprises put the odds against

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		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.	<del>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.</del>	<p>hydro power. The bid parameter of additional free power should not be encouraged and deleted from this provision.</p> <p>The policy should provide for a plug and play model for development of hydro projects. The state government should set up a SPV for a project or a set of projects on the river basin. The SPV would carry out the pre-development activities of getting clearances, land acquisition and R&amp;R, PPAs etc. The project(s) shall be bid out to developer on (Design, Built and Own and Operate) and the developer quoting the highest premium for 51%/ 74% stake offered in the SPV. The state government shall continue to hold 49%/ 26% on the SPV with the option to exit post COD of the project.</p> <p>Some of the hydro projects have also entered into long term PPAs with the distribution licensees at a tariff to be determined by the Appropriate Commission under Section 62. The provision under 5.5(a) may therefore, be reviewed and relaxation may be allowed to such hydro power projects.</p>
9.	5.5 (d)	The time period for commissioning of all the units of the project shall be fixed at four years from the date of approval of the commissioning schedule by the Appropriate Commission. However, the	May be reviewed.	Generation has been delicensed under the Electricity Act, 2003 except hydro projects involving capital expenditure exceeding a sum as fixed by the Central Government under Section 8 of the Act have to obtain concurrence of the



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		<p>Appropriate Commission may, after recording reasons in writing, fix longer time period for hydroelectric projects (reservoir as well as run-of- river projects) of more than 100 MW capacity. Agreed timelines to achieve the fixed commissioning schedule alongwith penalty for delay shall be decided by the Appropriate Commission in consultation with the Central Electricity Authority. The Appropriate Commission shall allow pass through the Interest During Construction (IDC) and Financing Cost (FC) only upto the period of delay not attributable to the developer, as approved by the CEA.</p>		<p>CEA. The Appropriate Commission does not approve the commissioning schedule of the hydro project. The Appropriate Commission may approve Scheduled COD of the hydro project at the time of approval of the PPA which may be at a date after commencement of construction at the project. The Distribution licensee may also enter into a PPA with the generating company after the date of commissioning of the project. Thus, the clause relating to time period of 4 years from the date of approval of the commission schedule by the Appropriate Commission is not in line with the provisions of the Electricity Act. The Appropriate Commission, while determining the tariff, may be guided by the commissioning schedule as indicated by CEA in the concurrence given under Section 8 of the EA, 2003.</p> <p>Further, the provision of penalty for delay is not relevant as it is already stated that IDC and FC for the period of delay attributable to the developer will not be allowed as pass through in tariff.</p>
10.	5.11 (b)	<p>For financing of future capital cost of projects, a Debt: Equity ratio of 70:30 should be adopted. Promoters would be free to have higher quantum of equity investments. The equity in excess of this norm should be treated</p>	<p>For financing of future capital cost of projects, a Debt: Equity ratio of 70:30 should be adopted. Promoters would be free to have higher quantum of equity investments. The equity in excess of this norm should be treated</p>	<p>In case of lower equity and higher loan, to the extent of shortfall of equity, higher loan should be should be considered for calculation of Tariff</p>

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		as loans advanced at the weighted average rate of interest and for a weighted average tenor of the long term debt component of the project after ascertaining the reasonableness of the interest rates and taking into account the effect of debt restructuring done, if any. In case of equity below the normative level, the actual equity would be used for determination of Return on Equity in tariff computations.	as loans advanced at the weighted average rate of interest and for a weighted average tenor of the long term debt component of the project after ascertaining the reasonableness of the interest rates and taking into account the effect of debt restructuring done, if any. In case of equity below the normative level, the actual equity would be used for determination of Return on Equity and <b>actual loan should be considered for allowing interest</b> in tariff computations	
11.	5.11 (c) Depreciation	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 <b>thermal generation, hydro generation, renewable energy generation</b> and transmission assets. <b>The depreciation rates should be commensurate to the useful life of thermal, hydro and renewable energy generation and transmission assets</b> and lead to lowering of tariff. The depreciation rates so notified for transmission assets would <b>serve as a reference</b> 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. 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 the depreciation schedule

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			<p><b>and notified by State Commissions.</b></p>	<p>should be aligned to such long-term financing availed.</p> <p>Further, the depreciation rates for generation cannot be made applicable to the distribution assets and the depreciation rates for transmission can at best serve as reference.</p>
12.	5.11 (c)	<p>Notwithstanding the above, power from those plants of a generating company, where either whose PPAs have expired or plants have completed their useful life, may be bundled with power from renewable generating plants to be set up through the process of bidding or for which the equipment for setting up such plant is procured through competitive bidding. In such cases, power from such plants can be reallocated to beneficiaries purchasing power from renewable energy generating plants on the principles to be decided by Appropriate Government. The Obligated Entities which finally buy such power shall account towards their renewable purchase obligation to the extent of power bought from renewable energy generating plants.</p>	<p>This clause may be deleted</p>	<p>It is suggested that the provision be deleted. With the introduction of competitive bidding in wind and solar power procurement, the tariffs have hit historic lows and there is no requirement to blend RE power with depreciated thermal power to bring down the pooled cost of such power.</p> <p>In fact, with the increase in the variable cost of Coal based Power plants, due to progressively increase in coal pricing, and sharp reduction in cost of RE based Power plants, justification for this clause has been lost. Further, if Coal-based plants have to follow the New Environment Norms (design permitting), it which would only add to the cost, and make bundling unviable.</p> <p>The power plants that have completed their useful life should be considered for retirement and the coal resources freed should be allocated to new efficient plants.</p>

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		The scheduling and despatch of such conventional and renewable generating plants shall be done separately.		
13.	5.11 (f) Operating Norms	Operating norms for distribution networks would be notified by the concerned SERCs. For uniformity, the Forum of Regulators should evolve model guidelines taking into consideration the state specific distinctive features.	<p>Operating norms for distribution networks would be notified by the concerned SERCs. For uniformity, the Forum of Regulators should evolve model guidelines taking into consideration the state specific distinctive features.</p> <p><b>However, in cases where CERC norms, e.g. Technical Minimum, have been announced, and SERCs are yet to make necessary regulations/ norms/ rules, the CERC norms should be applicable till state specific norms are announced. Further, the SERC norms should not be inconsistent with CERC norms.</b></p>	<p>FOR has issues several model guidelines over the years, however, the adoption of these model guidelines by SERCs is very poor. This is leading to diverse regulations, sub-optimal adoption and issuance of regulations by SERC.</p> <p>A mechanism needs to be devised to ensure compliance by SERCs. Also, in case CERC has issued norms which are to be implemented by the Distribution Companies, and the state Governments have not yet regulated state specific specifications, the CERC norms should become applicable, till the SERC norms are formulated. Further, the guidelines should clearly provide that SERC norms should not be inconsistent with CERC norms. This would ensure Pan-India uniformity.</p> <p>Further, Regulation no. 6.3B of Central Electricity Regulatory Commission, New Delhi Notification dated 6<sup>th</sup> April 2016 provides that technical minimum schedule for operation in respect of a Unit or Units of a Central Generating Station and Inter State Generation Stations shall be 55% of MCR loading or installed capacity of the unit at Generating stations. However, the same provision has not yet been done or implemented</p>

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				<p>for embedded power stations of IPPs supplying power to State DISCOMs. As the equipment installed at all types of power stations are of similar design and specifications and also are manufactured by standardized manufacturers irrespective of ownership of power stations, the Technical Minimum Schedule for operation with respective corrections in operating parameter should be same for all generating stations.</p> <p>This should be covered in the tariff policy and SERCs may be suitably advised to make provisions accordingly, to bring at par technical minimum schedule of operation for all power generating stations.</p>
14.	5.11 (f)	<p>..... The norms should be efficient, relatable to past performance, capable of achievement and progressively reflecting increased efficiencies and may also take into consideration the latest technological advancements, fuel, vintage of equipments, nature of operations, level of service to be provided to consumers etc. Continued and proven inefficiency must be controlled and penalized. .... In cases where operations have been much below the norms for many previous years, the SERCs may fix relaxed norms suitably and draw a</p>	<p>..... The norms should be efficient, relatable to past performance, capable of achievement and progressively reflecting increased efficiencies and may also take into consideration the latest technological advancements, fuel, vintage of equipments, nature of operations including change in such operations which <b>are beyond control of generator / transmission / distribution licensee</b>, level of service to be provided to consumers etc. Continued and proven inefficiency must be controlled and penalized. .... In cases where operations have been</p>	<p>The tariff policy should also provide guidance to consider changes in operating conditions (which is beyond the control of the Generators) to be accounted while deciding normative level e.g. lower PLF linked to scheduling, frequent change in generation due to increasing penetration of renewable generation etc.</p>

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		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. ....	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. ....	
15.	New Clause		As per provision of Ministry of Environment, Forest and Climate change in its notification dated 25 <sup>th</sup> Jan 2016, free transportation of dry fly ash is to be provided to various utilities by every coal or lignite based thermal power plant (including captive or co-generating stations). As power generating stations are already under stressed condition, cost of providing free transportation of dry fly ash as above may allowed as pass through in the tariff under "Change of Law", as otherwise cost of free transportation will be huge burden on the power generating stations.	For efficient and affordable functioning of Power generating stations.
16.	5.11 (g)	....A Multi-Year Tariff (MYT) framework may be prescribed which should also cover capital investments necessary for renovation and modernization and an incentive framework to share the benefits of efficiency improvement		Additional Capitalization for replacement of Assets with life less than life of Power Plant should be allowed as Add Cap with write off of old assets. An appropriate tariff on the Add Cap should be allowed

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		between the utilities and the beneficiaries with reference to revised and specific performance norms to be fixed by the Appropriate Commission. Appropriate capital costs required for predetermined efficiency gains and/or for sustenance of high level performance would need to be assessed by the Appropriate Commission.		
17.	5.11 (i)	Tariff fixation for all electricity projects (generation, transmission and distribution) that result in lower Green House Gas (GHG) emissions than the relevant base line should take into account the benefits obtained from the Clean Development Mechanism (CDM) into consideration, in a manner so as to provide adequate incentive to the project developers.	Tariff fixation for all electricity projects (generation, transmission and distribution) that result in lower Green House Gas (GHG) emissions than the relevant base line should take into account <b>overall</b> the benefits obtained from the Clean Development Mechanism (CDM) into consideration, in a manner so as to provide adequate incentive to the project developers	The CDM benefits should consider the net benefit, positive as well as negative while considering the benefits obtained from the CDM activity. As the beneficiaries of the project will be benefitted by the positive returns from the project. They should also be able to reimburse cost incurred, when cost recovery exceeds the returns obtained. It is required to be considered as the revenue of CDM is directly dependent on price fluctuation in the international market which has reduced substantially.
18.	5.12	While it is recognized that the State Governments have the right to impose duties, taxes, cess on sale or consumption of electricity, these could potentially distort competition and optimal use of resources especially if such levies are used selectively and on a non-uniform basis.	While it is recognized that the State Governments have the right to impose duties, <u>taxes</u> , cess on sale or consumption of electricity, these could potentially distort competition and optimal use of resources especially if such levies are used selectively and on a non-uniform basis. <b>This distortion can be addressed by including the</b>	It is suggested that electricity be bought under the GST regime.  If electricity is brought under GST, the cascading effect of taxation on the Power producers will be taken away, and Power will become cheaper for consumers.

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			<b>electricity sector under GST regime.</b>	
19.	5.13	The Act provides for introduction of open access for consumers of one megawatt and above in a time bound manner. The Regulatory Commissions shall introduce open access for different categories of consumers as per the provisions of the Act.	The Act provides for introduction of open access for consumers <del>of one megawatt and above</del> in a time bound manner. The Regulatory Commissions shall introduce open access for different categories of consumers as per the provisions of the Act.	<p>Section 42(2) of the Act doesn't specify the quantum for introduction of open access. The section is reproduced below</p> <p>"(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:"</p> <p>The fifth proviso to Section 42(2) provides for that the State Commission shall provide by Regulation open access to all consumers with maximum power to be made available any time exceeding one megawatt, not later than five years from the date of commencement of Electricity(Amendment), Act, 2003.</p> <p>The Tariff Policy should lay down a timeline, say till 2020, to introduce Open Access to consumers below 1 MW and thereby offering choice to consumers of source of supply. This will be in accord with the Government's intent to bring in separation of Carriage and Content.</p>



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20.	6.1	<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 Ministry of Power vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013.</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 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 <del>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</del> as per the mechanism established by CERC under Regulation 30 of Tariff Regulation 2014-19, which provides for use for alternate sourcing of fuel on account or shortage of fuel or optimization of operation through blending is to be adopted.</p> <p><i>"In case of part or full use of alternative source of fuel supply by coal based thermal generating stations other than as agreed by the generating company and beneficiaries in their power</i></p>	<p>While bringing out the advisory and amendment in 2016, it was presumed that by end of 12<sup>th</sup> 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>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 Coal pas through. As per the advisory issued by MOP dated 31.07.2013 itself, in para 2, limits the pass through dispensation to the 'remaining four years of the 12<sup>th</sup> Plan'. Therefore, to ensure that the cost of deficit Coal quantity is pass through, the reference to Advisory issued by MoP vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013 needs to be taken out.</p> <p>Initially, each state formulated different mechanism for arrangement of Coal. To bring out uniformity, CERC has passed regulation 30 of</p>

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			<p><i>purchase agreement for supply of contracted power on account of shortage of fuel or optimization of economical operation through blending, the use of alternative source of fuel supply shall be permitted to generating station:</i></p> <p><i>Provided that in such case, prior permission from beneficiaries shall not be a precondition, unless otherwise agreed specifically in the power purchase agreement:</i></p> <p><i>Provided further that the weighted average price of use of alternative source of fuel shall not exceed 30% of base price of fuel computed as per clause (11) of CERC Tariff Regulations 2014-19:</i></p> <p><i>Provided also that where the energy charge rate based on weighted average price of use of fuel including alternative source of fuel exceeds 30% of base energy charge rate as approved by the Commission for that year or energy charge rate based on weighted average price of use of fuel including alternative sources of fuel exceeds 20% of energy</i></p>	<p>Tariff Regulation 2014-19, which has been reproduced in the adjoining column. Accordingly, it appears appropriate for this regulation to be incorporated in the Tariff Policy, as CERC regulation does not have binding force on SERCs, but with inclusion in Tariff Policy, it would.</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 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>The Advisory issued by Ministry of Power vide OM No. FU-12/2011-IPC (Vol-III) dated 31.7.2013 had a sunset clause. Therefore, the pass through of cost of imported/market-based e-auction coal should be as per CERC, under Regulation 30 of Tariff Regulation 2014-19, which provides for use for alternate sourcing of fuel on account or shortage of fuel or optimization of operation through blending. In such cases, prior permission is not a precondition and the "weighted average price of use of alternative source of fuel shall not exceed 30% of base price of fuel".</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
			<i>charge rate based on based on weighted average fuel price for the previous month, whichever is lower shall be considered and in that event, prior consultation with beneficiary shall be made not later than three days in advance."</i>	Accordingly, arrangement of alternate Coal should be allowed uniformly by all SERCs as per the mechanism defined by CERC under Regulation 30 of Tariff Regulation 2014-19.
21.	New clause	New clause	<b>Some of competitively bid projects as per the guidelines dated 19.01.2005 have experienced difficulty in obtaining approval for compensation under change in law for the expenditure incurred towards measures taken to comply with MoEF directions for installation of air pollution control equipment/ measures. In view thereof, the capital as well as operational expenditure associated with installation of Flue Gas Desulfurization (FGD) and other equipment consequent to the directions given under Environment Clearance or otherwise by Ministry of Environment and Finance shall be allowed as pass through for all type of projects, where tariff is either fixed by Regulator or</b>	Since Capital as well as operational Expenditure on account of Environment Protection Measures is substantial and it is not possible for the project developer to factor in the same in the bid. Therefore, it is essential to incorporate proposed amendment in order to ensure uniform decision by various Commissions.

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
			<p>derived through the Competitive Bidding.</p> <p>This dispensation shall also be applicable for all the environment protection measures being undertaken pursuant to Notification no. S.O.3305(E) dated 07.12.2015 issued by MoEF to ensure the commissioning schedule decided by Central Electricity Authority.</p>	
22.	6.2 New proviso to be added	New proviso	<p><b>Ministry of Environment and Forest and Climate Change vide has notified the Environment (Protection) Amendment Rules, 2015 by notification dated 07.12.2015 by which the water consumption and emission norms of the thermal plants have been tightened. Appropriate Commission after due prudence check shall allow the additional capital expenditure and operational expenditure incurred by the thermal power stations to comply with the revised norms as a pass through in tariff for those projects which have entered into PPAs or who had submitted bids</b></p>	<p>Ministry of Environment and Forest and Climate Change has notified the Environment (Protection) Amendment Rules, 2015 by notification dated 07.12.2015 by which the water consumption and emission norms of the thermal plants have been tightened. Compliance to the revised norms will require installation of additional equipment involving additional capital expenditure and operating expenditure. This may be considered as change in law and the additional Capex and Opex must be allowed as pass through in tariff to the generating stations by the Appropriate Commission.</p> <p>Compliance to the New Environment Norms requires installation of new equipment involving additional capital expenditure and operating expenditure. This should be considered as</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
			<p><b>under Section 63 of the EA, 2003 before the date of notification of the environment notification as a pass through in tariff.</b></p>	<p>Change in Law and the additional Capex &amp; Opex should be allowed as pass through in tariff. An attempt was made by CERC to bring in-principle Change in Law order in hearings for petitions 77/MP/2016, 133/MP/2016, and 98/MP/2017. However, counsels of the Procurers have objected to it, saying that there is no provision for in-principle approval in the tariff regulations, and they would like to be heard before any in-principle order is issued. Looking at this, it appears that this also may end up in prolonged litigations, with procurers, and procurers may challenge the CERC order in APTEL. Therefore, as there is a consensus that this needs to be Change in Law, and Capex &amp; Opex needs to be pass through, the most appropriate way-forward is to include the additional Capex and Opex on account of implementation of New Environment Norms as Deemed Change in Law in the Tariff Policy itself.</p> <p>An additional provision may be added to clause 6.2 in this regard that the Appropriate Commission may allow such expenditure as pass through in tariff. However, the generating company should award contracts for such modifications by following competitive bidding. This will help the thermal power projects to arrange finances at reasonable interest rates for undertaking the modifications.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
23.	6.2	New provision	<p><b>(6) Central Commission has notified regulations under the Indian Electricity Grid Code providing for technical minimum for thermal power stations and compensation to thermal power stations for loss of heat rate, auxiliary consumptions and secondary oil consumption for reducing generation below the normative plant availability level on account of grid security or due to less schedule given by the beneficiaries. The State Commissions shall be guided by the Central Commission's notifications and modify their respective regulations accordingly in this regard.</b></p>	<p>GOI has set up a target for achieving a RE capacity of 175 GW by year 2022. Integration of large RE capacity would result in cyclic operation at the thermal projects. CERC has already specified regulations under the grid code specifying technical minimum for thermal power stations and for compensation for loss of heat rate and auxiliary consumption and secondary oil consumption beyond specified numbers of start and stop for giving lower schedule and on account of grid security for generation below the normative availability level. However, the State Commissions are yet to adopt such Regulations. To ensure participation of Intra-State generating stations in backing down generation to allow renewable energy integration into the grid, State Commissions have also to specify similar regulations.</p> <p>According to Section 61 of the EA, 2003, the State Commissions have to be guided by the principles and methodologies specified by the Central Commission for determination of tariff applicable to generating companies and the tariff policy.</p> <p>Additional provision in the tariff policy may be added in this regard. This will help in State Commission also to specify regulations for compensating the generating stations for loss of</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
				efficiency caused due to scheduling and dispatch instructions to help in secure operation of the grid and to facilitate integration of renewable energy resources. As per Section 86(1)(h) of the EA, 2003, the State Commission has to specify grid code consistent with the Grid code specified by the Central Commission.
24.	6.2 (1)	A two-part tariff structure should 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 introduce differential rates of fixed charges for peak and off-peak hours for better management of load within a period of two years.	A two-part tariff structure should 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) <del>shall be</del> <del>is also to be</del> introduced at State level <b>within a period of one-year of the date of notification of the revised tariff policy</b> . This framework would be extended to generating stations (including grid connected 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.	ABT at state level has not been introduced by SERCs except Gujarat and Maharashtra. The tariff policy should specify mandatory and time-bound, say 2020, for roll-out of intra-state ABT in line with the proposal of introducing open access to consumer below 1 MW, as well as for the introduction of differential tariff rates – for peak and off-peak hours. With the integration of all regional grids, intra-state ABT will facilitated transparent and efficient accounting of deviation from schedules.
25.	6.2 (1)	Power stations are required to be available and ready to dispatch at all times. Notwithstanding any provision contained in the Power Purchase Agreement (PPA), in order to ensure	Power stations are required to be available and ready to dispatch at all times. Notwithstanding any provision contained in the Power Purchase Agreement (PPA), in order to ensure	To suffice the intent of the Ministry for maximum and optimum utilization of available generation capacity, the new Para may not be only applicable to projects whose tariff is determined under Section 62. As driven by the Ministry,

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
		<p>better utilization of un-requisitioned generating capacity of generating stations, based on regulated tariff under Section 62 of the Electricity Act 2003, the procurer shall communicate, at least twenty four hours before.....</p>	<p>better utilization of un-requisitioned generating capacity of generating stations, <del>based on regulated tariff under Section 62 of the Electricity Act 2003,</del> the procurer shall communicate, at least twenty four hours before.....</p>	<p>majority of the new upcoming capacity have now been set-up under Section 63 and if the proposed new Para is introduced in the manner as set-out therein, then complete utilization of the un-requisitioned capacity will not be attained.</p> <p>Benefit of utilisation of un-requisitioned capacity can not be limited to Section 62 projects only. Presently tariffs for projected under Section 63 are most competitive and in many cases far less than other projects.</p>
26.	6.2 (1)	<p>Power stations are required to be available and ready to dispatch at all times.....</p> <p>...The developer and the procurers signing the PPA would share the gains realized from sale, if any, of such un-requisitioned power in market in the ratio of 50:50, if not already provided in the PPA. Such gain will be calculated as the difference between selling price of such power and fuel charge...</p>	<p>Power stations are required to be available and ready to dispatch at all times <b>and rewarded appropriately with incentives for higher than normative availability</b></p> <p>...The developer and the procurers signing the PPA would share the gains realized from sale, if any, of such un-requisitioned power in market in the ratio of 50:50, if not already provided in the PPA. Such gain will be calculated as the difference between selling price of such power <b>and selling cost which includes fuel charge, transmission cost, water charges, Aux. consumption and other marginal charges.</b></p>	<p>Incentives may be provided to generators for maintaining aggregate annual availability higher than normative. Such high availability has become more important considering penetration of renewable generation including variability in dispatch requirement from the beneficiaries due to such penetration.</p> <p>We submit that all marginal cost (except fixed cost paid by the beneficiary) is to be considered for calculating gain. Like Fuel, Water and Aux. Consumption is also variable Cost and it should be allowed as deduction while calculating gain to be shared with beneficiaries</p>



#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
27.	6.2 (4)	After the award of bids, if there is any change in domestic duties, levies, 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 "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through subject to approval of Appropriate Commission.	<p>After the award of bids, if there is any change in domestic duties, levies, 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 "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through subject to approval of Appropriate Commission.</p> <p><b>With a view to avoid cash flow problems of the generating companies and to ensure smooth pass-over of power purchase costs through ARR by distribution companies, the procurers/ distribution companies shall immediately commence payment, along with carrying charges, limited to the change in law events approved by Appropriate Commission in accordance with PPA provisions till the order of Appropriate Commission is stayed/ modified.</b></p>	<p>Discoms are not paying for legitimate and incontestable Change in Law factors – such as Coal Terminal Surcharge (recovery), Development Surcharge, Busy Season Surcharge, Clean Energy Cess, Central Excise Duty, Service Tax, among others – which result in under-recovery for the developer.</p> <p>The overdues situation itself has been worsening over the years without any structural solution. Further, since carrying cost is not provided for, it gives an incentive to the Discoms to keep delaying payment and continue the litigation process.</p> <p>For such Incontestable factors, a simpler method needs to be formulated to avoid the long and arduous process of approval from Regulators, and subsequent challenges.</p> <p>It has been observed that certain factors leading to increase in cost of generation have been uniformly considered as "Change In law" events by Regulatory Commissions. Such factors (illustrative list attached as Annexure) may be notified by CERC on a regular basis, say every six months, for automatic approval as pass through.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
			<p><b>As such, CERC may issue a list of such factors, on six-monthly basis (in a similar manner to notification of escalation factors) and the compensation/ relief in terms of tariff adjustments may be suitably settled between Generators and procurers, without warranting any regulatory intervention.</b></p>	
28.	6.4 (1)	<p>Appropriate Commission shall fix a minimum percentage of the total consumption of electricity in the area of a distribution licensee for purchase of energy from renewable energy sources, taking into account availability of such resources and its impact on retail tariffs.</p>	<p>Appropriate Commission shall fix a minimum percentage of the total consumption of electricity in the area of a distribution licensee for purchase of energy from renewable energy sources <b>as well as from Gas based Power Plants</b>, taking into account availability of such resources and its impact on retail tariffs.</p>	<p>Considering environment benefits of Gas based generation, preference should be given to Gas based generation as compared to Coal based generation by giving it status equivalent to Renewable Generation</p> <ul style="list-style-type: none"> <li>• Emissions from Gas based Power generation is lower as compared to Coal based Power generation</li> <li>• CO2 from Gas based power plant is 50% less as compared to Coal based power plant</li> <li>• Very low NOX and SOX from Gas-based power plants</li> </ul>
29.	6.4 (1) (i)	<p>Within the percentage so made applicable, to start with, the SERCs shall also reserve a minimum percentage for purchase of solar energy from the date of notification of this policy which shall be such that it reaches 8% of total consumption of energy, excluding Hydro Power, by</p>	<p>Within the percentage so made applicable, to start with, the SERCs shall also reserve a minimum percentage for purchase of solar energy from the date of notification of this policy which shall be such that it reaches 8% of total consumption of energy, excluding Hydro Power, by</p>	<p>The policy has no mention of the measures adopted to ensure compliance of RPO target or potential penalties in case of non-compliance.</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
		March 2022 or as notified by the Central Government from time to time.	March 2022 or as notified by the Central Government from time to time.  <b>Appropriate Regulator to issue regulation to ensure RPO compliance including provision for penalty.</b>	
30.	New Clause		Development of cross border transmission line between the pooling stations within India till Indian border shall be allowed by CTU and/or any private entity having definitive agreements such as PPA with neighboring countries.	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.
31.	6.4 (5)	In order to promote renewable energy sources, any generating company proposing to establish a coal/lignite based thermal generating station after a specified date shall be required to establish such renewable energy generating capacity or procure and supply renewable energy equivalent to such capacity, as may be prescribed by the Central Government from time to time after due consultation with stakeholders. The renewable energy produced by each generator may be bundled with its thermal generation for the purpose of sale. In case an obligated entity procures this	May be deleted	Over the last two years (since the issuance of Tariff Policy), the RE sector has taken off with significant interest from Public as well as Private developers. In view of the way RE sector has developed and the projections for the sector, it is suggested that the mandatory requirement of setting up or procuring RE by the coal/lignite developer be removed. The generation has been deregulated under the EA, 2003. Bringing a provision regulating the setting up of generation projects will be contrary to the intent of the Act. Further, the procurement of power from coal/lignite-based power projects and from renewable sources is being done through separate competitive bidding document. Bundling of power from coal/lignite and renewable sources

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
		renewable power, then the SERCs will consider the obligated entity to have met the Renewable Purchase Obligation (RPO) to the extent of power bought from such renewable energy generating stations.		will create complications in bidding process leading to avoidable disputes
32.	New Provision	New provision on Forecasting and Scheduling of Renewable energy		Given that RE is being pursued in a big way, it is suggested that provision calling for implementation of forecasting and scheduling of renewable energy be provided. CERC and few SERCs have issued regulations on Forecasting and Scheduling of renewable energy and it needs to be ensured that the regulations issued are uniform and consistent.
33.	New Provision	New Provision	Any cost incurred on account of any energy conservation efforts put up by the Generator, during the life of Plant, shall be considered as Additional Capitalisation.	The installation of above practices will result in Lower Aux. consumption benefiting beneficiaries through higher sharing of ECR Gain, and reducing emission level in the environment.
34.	New Provision	New Provision	The commission shall consider Large scale renewable capacity additions while deciding normative parameters such as Heat Rate, Aux consumption and normative O&M for Thermal Power Plants.	Increase in installed renewable capacity is having adverse impact on base load operations of thermal station during day time (for solar generation) or during time period of wind (for wind generation).  This leads to variability of load and low operating loads with adverse impact on Station Heat Rate & Aux Consumption
35.	7.1 (3)	Transmission charges, under this framework, can be determined on MW		Presently, transmission users pay Point of Connection Charges (PoC) which is a single part

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
		<p>per circuit kilometer basis, zonal postage stamp basis, or some other pragmatic variant, the ultimate objective being to get the transmission system users to share the total transmission cost in proportion to their respective utilization of the transmission system. The 'utilization' factor should duly capture the advantage of reliability reaped by all. The spread between minimum and maximum transmission rates should be such as not to inhibit planned development/ augmentation of the transmission system but should discourage non-optimal transmission investment.</p>		<p>tariff structure. Long-term and Medium-term access users are charged on Rs/MW/ month for the transmission capacity granted/ booked to them, irrespective of the actual usage. Short-term users are charged on Rs/kWh basis i.e. usage basis. The capacity charge methodology for transmission was successful in the era wherein the generating capacities were fully tied-up under long-term PPAs with identified beneficiaries. In the present scenario of many plants without firm tie-up, the methodology of full transmission capacity recovery through single part tariff is causing stress on already stressed thermal projects. Further, with the expected evolution of electricity market away from long term PPAs and more towards, medium &amp; short-term markets, and flexible generation, transmission pricing needs to evolve to a two-part tariff structure.</p> <p>It is suggested that the Tariff Policy recommends a two-part tariff structure, wherein part recovery is in the form of transmission capacity charges (Rs/MW) and part on usage terms (Rs/kWh) energy wheeled, ensuring full recovery of transmission charges from these two components.</p>
36.	7.4 (1)	The Central Commission may introduce the norms and framework for ancillary services, including the method of	The Central Commission <b>and State Commissions</b> may introduce the norms and framework for ancillary	CERC has already specified Ancillary Services Regulations, 2015 for inter-State system. However, the State Commissions have not so far

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
		sharing the charges, necessary to support the power system or grid operation for maintaining power quality, reliability and security of the grid.	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.	made any regulations for Ancillary Services in intra-State system. Similar regulations need to be specified by the State Commissions to enable participation of intra-State generating companies in ancillary services market. It is suggested that necessary provision may be added in this regard.
37.	New Provision	New Provision	<b>Appropriate provision for promotion of Battery Storage may be introduced.</b>	Provision for promotion of Battery Storage for RE balancing and grid support be included, as and when the prices for battery storage become competitive since the contribution of RE is projected to increase significantly. Likewise, provision for promotion of EV charging infrastructure and EV-to-Grid support be introduced.
38.	New Provision	New Provision	<p><b>Provision for promotion of Electric Vehicles and creation of EV charging infrastructure</b></p> <p>The State Commissions shall promote setting up of Electric Vehicle Charging Stations by the distribution licensees and other persons. The State Commission shall determine the retail supply tariff of the electricity supplied to Electric Vehicle Charging Station in a manner that it reflects the cost of supply and it does not cross subsidize other categories of consumers.</p>	The National Electric Mobility Mission Plan, 2020 notified by the Government of India seeks to enhance national energy security, mitigate adverse environmental impacts from road transport vehicles and boost domestic manufacturing capability for Electric Vehicles ("EVs"). Besides economics of EVs vis-à-vis petrol/diesel vehicles, development of EV charging infrastructure will play an important role in encouraging penetration of EVs in Indian market. The retail supply tariff of electricity supplied to the charging stations is required to be kept reasonable to promote EVs. It is felt that the tariff for charging stations should not be more than the cost of supply to the charging station and it should not cross subsidize other

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
				categories of consumers. It is suggested that necessary clause in this regard may be added for guidance of the State Commissions.
39.	8.0 Distribution	Supply of reliable and quality power of specified standards in an efficient manner and at reasonable rates is one of the main objectives of the National Electricity Policy. The State Commission should determine and notify the standards of performance of licensees with respect to quality, continuity and reliability of service for all consumers. It is desirable that the Forum of Regulators determines the basic framework on service standards. A suitable transition framework could be provided for the licensees to reach the desired levels of service as quickly as possible. Penalties may be imposed on licensees in accordance with section 57 of the Act for failure to meet the standards.		<p>This clause was introduced in the first tariff policy issued on 6<sup>th</sup> Jan 2006. FOR has specified model standard of performance (SOP) for Discoms and many states commission have issued their SOP regulations on the model regulations. However, even after 10 years as a transition period, Consumers are yet to receive reliable and quality power and experience better standards of supply. The tariff policy should call for revision of model standard of performance issued by FOR and specify a time line of say 2020-21 for meeting these revised SOP by all Discoms.</p> <p>Provision for introduction of Reliability Surcharge payable to the Discom as an incentive and imposition of strong penalties on the Discoms on deviation from SOP be provided.</p>
40.	8.2.2 (b)  Regulatory Asset recovery	Recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding seven years. The State Commission may specify the trajectory for the same.	Recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding <b>one MYT control period</b> . The State Commission may specify the trajectory for the same. The State Commission shall allow carrying cost on	Seven years for recovery of Regulatory assets is too high and results in cash flow problem for the distribution licensee. It should also be stated that the carrying cost on the outstanding Regulatory assets shall be allowed in as pass through in retail supply tariff every year till the entire regulatory assets are liquidated to provide for time value of the money.

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
			the outstanding Regulatory Assets in retail supply tariff every year, till the regulatory assets are liquidated.	
41.	8.3	The State Governments can give subsidy to the extent they consider appropriate as per the provisions of section 65 of the Act. Direct subsidy is a better way to support the poorer categories of consumers than the mechanism of cross subsidizing the tariff across the board. Subsidies should be targeted effectively and in transparent manner. As a substitute of cross subsidies, the State Government has the option of raising resources through mechanism of electricity duty and giving direct subsidies to only needy consumers. This is a better way of targeting subsidies effectively.	The State Governments can give subsidy to the extent they consider appropriate as per the provisions of section 65 of the Act. Direct subsidy is a better way to support the poorer categories of consumers than the mechanism of cross subsidizing the tariff across the board, <b>which should be done via Direct Benefits Transfer (DBT) Scheme.</b> Subsidies should be targeted effectively and in transparent manner. As a substitute of cross subsidies, the State Government has the option of raising resources through mechanism of electricity duty and giving direct subsidies to only needy consumers. This is a better way of targeting subsidies effectively.	Implementation of DBT Scheme, by way of transfer of subsidies directly to the people through their bank accounts, is essential to bring in transparency and terminate pilferage.
42.	8.5.1 Cross- subsidy surcharge and additional surcharge for open access	A consumer who is permitted open access will have to make payment to the generator, the transmission licensee whose transmission systems are used, distribution utility for the wheeling charges and, in addition, the cross-subsidy surcharge. The computation of cross subsidy surcharge, therefore, needs to be done	A consumer who is permitted open access will have to make payment to the generator, the transmission licensee whose transmission systems are used, distribution utility for the wheeling charges and, in addition, the cross-subsidy surcharge. The computation of cross subsidy surcharge, therefore, needs to be done	Cross subsidy surcharge is a compensatory charge to compensate the distribution licensee when a subsidizing consumer shifts from the distribution licensee to an alternative source of supply. However, if power cut is imposed by the distribution licensee on a consumer and during such period of power cut the consumer arranges to take power in open access, then CSS should not be levied on the consumer for such period as



#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
	Second Proviso	in a manner that while it compensates the distribution licensee, it does not constrain introduction of competition through open access. A consumer would avail of open access only if the payment of all the charges leads to a benefit to him. While the interest of distribution licensee needs to be protected it would be essential that this provision of the Act, which requires the open access to be introduced in a time-bound manner, is used to bring about competition in the larger interest of consumers.	<p>in a manner that while it compensates the distribution licensee, it does not constrain introduction of competition through open access. A consumer would avail of open access only if the payment of all the charges leads to a benefit to him. While the interest of distribution licensee needs to be protected it would be essential that this provision of the Act, which requires the open access to be introduced in a time-bound manner, is used to bring about competition in the larger interest of consumers.</p> <p><b>Cross subsidy surcharge should not be levied during the period the power cuts imposed by the distribution licensee on a consumer and during such period of power cuts the consumer arranges to take power in open access, since no cross-subsidy loss is incurred by the distribution licensee during this period.</b></p> <p><b>To not make Open Access provisions, onerous on the Discoms and to deter open access consumers from treating the</b></p>	<p>there is no loss to the distribution licensee when it was not able to arrange power for the consumer. A provision to this effect needs to be introduced.</p> <p>Large consumers in some states frequently switch between the market and Discoms regulated tariffs even on daily basis as power procurement on exchange has been enabled for open access consumers by allowing consumers to maintain their contract demand which is not reflective of fixed cost. Discoms have not been able to reduce their power purchase due to this frequent switching. Hence, the contract demand charges should be made commensurate of the fixed costs</p>

#	Clause	Present Provision	Amendment Suggested	Rationale of the Amendment
			<p><b>Discoms as a stand-by power source, the contract demand charges shall be made commensurate to the fixed costs incurred by Discoms to serve as a stand-by supplier to the open access consumer.</b></p>	

**Annexure A**  
**Illustrative list of**  
**Incontestable Change in Law Events for automatic pass through by Regulators**

#	Parameter
1	Change in rate of Service tax
2	Increase in the rate of works contract service-tax
3	Levy of Clean Energy Cess on Coal
4	Levy of Service tax, Education Cess and higher education Cess on Total Freight on Transportation of goods by Rail
5	Levy of Central Excise Duty on Domestic Coal
6	Inclusion of Stowing Excise Duty & Royalty in the Transaction Value for levy of Central Excise Duty
7	Levy of Forest Tax on Coal
8	Increase in Minimum Alternate Tax
9	Increase in royalty on coal
10	Levy / Increase in Busy Season Surcharge
11	Increase in Development Surcharge
12	Change in Price Mechanism from UHV to GCV
13	Increase in Surface Transportation Charges
14	Increase in Coal Sizing Charges
15	Introduction of fuel adjustment component
16	Change in Service Tax Rate – Operation Period
17	Levy of Excise Duty and Countervailing duty
18	Levy of Green Energy Cess
19	Levy of Custom Duty Electrical Power removed from SEZ
20	Custom Duty on Imported coal
21	Deviation from NCDP, 2007 and Changes in Coal Distribution Policy and changes in FSA
22	Increase in Fees for Consent to Operate
23	Levy of Port Congestion Surcharge
24	Change in classification of coal for train load movement
25	Change in Class of Railway Freight from 140 to 150
26	National Mineral Exploration Trust
27	District Mineral Foundation
28	Swachh Bharat Cess-Rail Transportation
29	Levy of duties under Customs Act, 1962, Customs Tariff Act, 1975, Central Excise Act, 1944 and/or Central Excise Tariff Act, 1985 on import/ procurement of any other goods
30	Carrying Cost