

# The Kolkata Gazette



सत्यमेव जयते

*Extraordinary*  
Published by Authority

ASVINA 24]

FRIDAY, OCTOBER 16, 2009

[SAKA 1931

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

## WEST BENGAL ELECTRICITY REGULATORY COMMISSION

No. WBERC/REGULATION/31/08-09/0725

Kolkata, the 16th October, 2009.

### NOTIFICATION

**CORRIGENDUM** to the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2009 issued under Notification No. 41/WBERC dated 22.05.2009 and published in the Kolkata Gazette Extraordinary PART I [No.WB(Part-I)/2009/SAR-146] on May 22, 2009 hereinafter referred to as the "Amending Regulations, 2009".

As some printing errors have been detected in the "Amending Regulations, 2009", creating thereby a possibility of misinterpretation of the same, now therefore, the West Bengal Electricity Regulatory Commission (WBERC) hereby issues the following corrigendum to the provisions of the said "Amending Regulations, 2009" as noted below:—

### CORRIGENDUM

Reference to Page No. and Line No. of the Gazette	Existing provisions in the "Amending Regulations, 2009" as erroneously printed	Corrected Version
Page 2- 2nd & 3rd lines	"(xxxiv) 'Date of Synchronization' means the date of synchronization with the bus bar as defined in clause (lvia) of these regulations."	"(xxxiv) 'Date of Synchronization' means the date of synchronization with the bus bar as defined in clause (xciiia) of these regulations."
Page 7- 32nd line	"Power Purchase Fund under clause (x) of regulation 4.15.2"	"Power Purchase Fund under clause (ix) of regulation 4.15.2"

Reference to Page No. and Line No. of the Gazette	Existing provisions in the "Amending Regulations, 2009" as erroneously printed	Corrected Version
Page 35- last line	$= \frac{E_{SL}}{(1 - t \times 0.01)} \times F_{IUC}$	$= \frac{E_{SL}}{(1 - t \times 0.01)} \times FC_{IUC}$
Page 36- 2nd line	$= \frac{E_{SC} + E_o}{(1 - d \times 0.01)} \times F_{IUC}$	$= \frac{E_{SC} + E_o}{(1 - d \times 0.01)} \times FC_{IUC}$
Page 36- 24th & 25th lines	"vii) Such re-determined fuel and zle - <b>9B</b> for the parameters related to fuel cost to the extent it has impact in the fuel cost"	"Such re-determined fuel and power purchase cost (FPPC) of the licensee will be further adjusted for gain sharing as per Schedule-9B for the parameters related to fuel cost to the extent it has impact in the fuel cost"

By order of the Commission,

K. L. BISWAS,  
Secretary of the Commission.

**Published in the Kolkata Gazette Extraordinary Part I Dated  
22 May, 2009 (No. WB(Part(I)/2009/SAR-146)**

---

**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

**NOTIFICATION**

**No. 41//WBERC**

**Dated : 22.05.2009**

In exercise of the powers conferred by sub-sections (1) and (2) of section 181 read with section 61 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in this behalf, the West Bengal Electricity Regulatory Commission hereby makes the following regulations to amend the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2007, as amended upto date:-

1. Short Title and Commencement :

- (i) These regulations may be called the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2009.
- (ii) They shall come into force on the date of their publication in the Official Gazette and apply for APR and FPPCA for the year 2008-2009 and onwards and also for determination of tariffs for the year 2010-2011 and onwards.

2. In regulation 1.2.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2007, as amended, (hereinafter referred to as the principal Regulations):-

- (i) for clause (vii), the following clause shall be substituted:-
  - “(vii) ‘Aggregate Revenue Requirement’ or ‘ARR’ means the requirement of fund for activities related to the business of electricity of a licensee or a generating company, as the case

may be, for recovery of allowable expenses, allocations, return on equity and other permitted allowances, for any specific period as a part of revenue recoverable through tariff in accordance with these regulations.”

(ii) after clause (xxix), the following clause shall be inserted:-

“(xxixa) ‘Controllable factor’ means those elements of ARR for which the entitlement is controllable or the expenditure can be controlled by the concerned licensee or generating company for whom ARR is determined at the amount for such element permitted by the Commission in the tariff order subject to specific conditions as permitted under these regulations”

(iii) for clause (xxxiv), the following clause shall be substituted:-

“(xxxiv) ‘Date of Synchronization’ means the date of synchronization with the bus bar as defined in clause (lvia) of these regulations.”

(iv) after clause (xxxviii), the following clauses shall be inserted:-

“(xxxviiiia) ‘Distribution charge’ means the revenue requirement for an ensuing year of a licensee only for its distribution system after deducting the revenue requirement for that ensuing year of its generating station(s) and power purchase cost from the overall ARR of the distribution licensee for that ensuing year;

(xxxviiiib) ‘Distribution charge (Recoverable)’ means the Distribution charge plus the adjustment arising out of APR for any year pertaining to distribution system only.”

(i) after clause (xlvi), the following clause shall be inserted:-

“(xlviiiia) ‘Fixed Cost’ means ARR or revenue recoverable through tariff reduced by corresponding variable cost for any activity or as a whole of the licensee or a generating station, as the case may be.”

(vi) after clause (I), the following clause shall be inserted:-

“(Ia) ‘Fuel Cost’ means all expenditure related to procurement of fuel that is required for combustion in thermal generating station for generation of electricity only and the associated transportation and handling charges inclusive of fuel quality assurance service cost, fuel delivery assurance cost, fuel quality enrichment cost and any other incidental charges as specified in regulation 4.8 of these regulations.”

(vii) after clause (lxxvi), the following clause shall be inserted:-

“(lxxviiia) ‘Research & Development Expenditure’ or ‘R & D Expenditure’ means expenditure on the head of research in fundamental or applied science, research in technology or engineering, survey or studies on available technology or consumer base or market base, impact assessment on environment and society, audit or survey in relation to safety, occupational health hazards, energy, security, and protection, etc.”

(viii) after clause (xciii), the following clause shall be inserted:-

“(xciiia) ‘Synchronization’ for the purpose of these regulations means the first commissioning (except test synchronization) of an unit of a generating station for the commencement of trial run prior to date of commercial operation and thereby injecting electricity in the State Grid with full availability of all load bearing equipments

and all systems of the generating station subject to specific deviations as specified in regulation 5.15.3 of these regulations and excluding the instances of test synchronization.”

(ix) after clause (xciv), the following clause shall be inserted:-

“(xciva) ‘Test Synchronization’ means the commissioning of any unit with its full/ partial installed capacity and thereby injecting the electricity in the State Grid for the purpose of test operation of such unit.”

(x) after clause (xcviii), the following clause shall be inserted:-

“(xcviiiia) ‘Uncontrollable factor’ means those elements of ARR for which expenditure depends on certain external factors and which are not fully controllable by the licensee or generating company.”

(xi) after clause (c), the following clause shall be inserted:-

“(ca) ‘Variable Cost’ means the fuel cost and/or power purchase cost portion of ARR or revenue recoverable through tariff for any activity or as a whole, as the case may be, of a licensee and/or generating station(s) or generating company, as the case may be”

3. After second proviso to regulation 2.2.2 of the principal Regulations, the following proviso shall be inserted:-

“Provided also that the tariffs of any licensee determined under these regulations for different categories of consumers are the maximum ceilings for supply of electricity at any agreed price to the consumers, only for those areas of supply of the licensee where multiple licensees exist subject to the condition that if for effecting of supply of electricity to any consumer at such lesser price than the above mentioned upper ceiling the licensee incurs any

loss, such loss shall not be allowed to be passed on to any other consumers or any other licensee of the Commission.”

4. After regulation 2.2.6 of the principal Regulations, the following regulations shall be inserted:-

“2.2.7 Any payment on the head of penalty or compensation or fine or penal taxes / duties / cess or disincentive or excess cess / royalty or under any name for violation or non-compliance or contravention of any provision of any statute or order of any statutory body or order of any judicial body shall not be considered as an expenditure recoverable through tariff excluding those items to the extent specifically permitted in these regulations. However, if the penalty or fine or penal taxes/ duties/ Cess or disincentive or excess cess/ royalty or any payment under any name imposed on any erstwhile licensee by any order of the Commission or any order passed by any Tribunal/ Court for any previous year is paid by any licensee who has taken over the assets and liabilities of that erstwhile licensee, that may be allowed to be recovered through tariff.

2.2.8 For non-submission or inappropriate submission of information or data as required under these regulations, the Commission may withhold any amount or not allow any expense as considered necessary.”

5. After the proviso to clause (ix) of regulation 2.5.1 of the principal Regulations, the following provisos shall be inserted:-

“ Provided further that for the purpose of this regulation on starting of Commercial Operation any extension unit of any existing generating station shall also be considered as a generating station and in such case if ARR determination of such unit necessitates adjustment of existing tariff of that generating station or licensee, then the Commission may allow an ad-hoc

adjustment against existing tariff till next tariff is determined and shall also add such ARR of the extension unit with the already determined ARR of the generating station for any ensuing year for which ARR has been determined but tariff is yet to be determined for the year concerned and such adjustment shall take place in the tariff order or APR order of that year as required.

Provided also that for such generating station the Commission may allow the generating company to charge an adhoc tariff for the energy supplied after COD till the tariff is determined against the said application.”

6. After clause (x) of regulation 2.5.1 of the principal Regulations, the following clauses shall be inserted:-

- “(xi) Where any element of ARR or ARR as a whole of a licensee is not available with the licensee separately for distribution system, generating station(s), and other activities such as transmission system, electricity trading, etc. for a period prior to coming into force of the Act, the licensee may allocate such element of ARR or ARR of the licensee among the activity of distribution system, each generating station and other activities on the basis of any principle approved by the Commission. Such approval shall be accorded by the Commission against prior application with requisite details.
- (xii) For the purpose of ARR determination where capital base, equity base of gross fixed asset or net fixed asset of a licensee or a generating company have been already allocated among distribution system, generating station(s), transmission system, electricity trading and other activities separately in absence of original real data, the Commission may reallocate such elements for the purpose of determination of ARR on availability of subsequent information or real data.
- (xiii) For the purpose of ARR determination where any element of ARR or ARR as a whole of a licensee cannot be ascertained for its distribution system, generating station (s), and other activities such as, trading of

electricity, transmission of electricity and other activities separately for any reasons whatsoever while determining the overall ARR of that licensee during ARR determination of different ensuing years of a control period but subsequently such elements of ARR are available through any application of APR of the licensee or through any other application to the Commission, then the Commission may allocate or reallocate such element of already determined overall ARR between the distribution system or generating station or other activities on the basis of such available information while passing the order of the tariff or APR of any year.

- (i) For the purpose of ARR determination where any amount is withheld on any ground and not allowed in the ARR of any ensuing year while determining such ARR under any tariff application but subsequently the reasons for such withholding is addressed properly and such amount becomes eligible to be recovered through tariff, then such amount may be adjusted with the ARR of any ensuing year(s) during determination of ARR for that/ those ensuing year(s) or through APR of any year as may be decided by the Commission.
- (ii) In case any error is found in the determined ARR of any tariff order or APR due to miscalculation or consideration of improper data, then the Commission may while issuing tariff order for an ensuing year, rectify the error on the basis of any application or suo-moto and make necessary adjustment for such rectification in the ARR of any ensuing year or in APR of any year.
- (iii) For non-compliance of any direction of the Commission in the tariff order or order of APR, the Commission may withhold or deduct any amount from the ARR of any ensuing year through the tariff order or order of the APR.

- (iv) In case of increase in employee cost due to wage revision through agreement or Government order or decision of the company or change in statutory provisions or applicable accounting standards over the amount already admitted in the determined ARR of any ensuing year for which tariff is not yet determined, the Commission may, on an application at any time from the generating company / licensee, admit the amount and adjust the additional amount required for such purpose with already determined ARR for the concerned ensuing year while determining the tariff for that year or through any other order and in that case the generating company/ licensee may consider the ascertained additional amount as revenue for the ensuing year. However, if such increase in employee cost is applicable from any retrospective date covering the period for which tariff has already been determined, then that amount shall also be considered as employee cost for the year as per relevant Accounting Standard and will be allowed to be recovered through APR or tariff of any ensuing year(s). However, if such admitted amount is found to have adverse impact on tariff in any single year, the Commission may keep such additional amount or a part of it as regulatory asset and pass such amount to be recovered through tariff in such number of years as deemed fit by the Commission. The generating company/ licensee shall submit a copy of the instrument mentioned above, due to which employee cost has increased, along with the application for determination of tariff or application for APR for any ensuing year/ base year or separate application, as the case may be, for allowing such increase in employee cost.
- (v) Notwithstanding anything to the contrary contained anywhere else in these regulations, in case of changes in fuel price or power purchase cost if it is found that fuel price or power purchase cost considered during ARR determination differs significantly from the prevailing fuel price during determination of tariff of any ensuing year, the

Commission may change the ARR accordingly as deemed fit on that account of fuel price and its consequential impact of power purchase cost only.

- (vi) Notwithstanding anything to the contrary contained anywhere else in these regulations, if during tariff determination under tariff order of any ensuing year it is found from the application of APR of any year of a licensee that in the preceding year(s) energy allowed in the tariff order for sale to consumers and licensee(s) differs significantly from the actuals, then the projected energy for sale to consumers and licensees by that licensee for such ensuing year as shown in the tariff order of the first ensuing year of the control period may be duly adjusted for the ensuing year for which tariff order is to be issued.
  - (vii) Notwithstanding anything to the contrary contained anywhere else in these regulations, if during determination of tariff for any ensuing year other than the first ensuing year of a control period, it is found that some elements of the ARR of any ensuing year already determined in the tariff order of the first ensuing year requires re-determination due to order of any appropriate Court of Law, then the Commission may re-determine the said elements with due adjustment in ARR during tariff determination for that ensuing year.”
7. After regulations 2.5.4.1 of the principal Regulations, the following regulation shall be inserted:-
- “2.5.4.2 While projecting costs on different heads of ARR for the ensuing years of a control period, a licensee or a generating company shall take into consideration the impact of inflation, efficiency improvement programme or any other specific issues that may clearly be established by the licensee/ generating company:
- Provided that for projection of fuel cost for the ensuing years, the principles laid down in regulation 4.8.1 shall be followed.”

8. After clause (v) of regulation 2.5.5.5 of the principal Regulations, the following clause shall be inserted:-

“(vi) The approval of Capital investment plan including capital expenditure programme or approval of any modification of it by the Commission is subject to condition that specific project-wise investment approval is to be taken separately under regulations 2.8.1.4, 2.8.2.3, 2.8.2.4, 2.8.3 and 2.8.4 of these regulations.”

1. For the table 2.5-1 below regulation 2.5.6.3 of the principal Regulations, the following table 2.5-1 shall be substituted:-

“Table 2.5-1

**ARR Item characteristics of Business of Electricity of a Generating Company or a Licensee**

<b>ARR Item</b>	<b>“Controllable”/ “Uncontrollable” Factor</b>
Fuel Cost subject to efficiency norms as per Schedule 9A of these regulation	Uncontrollable
Fuel price	Uncontrollable
Power Purchase Costs including the fuel cost or fuel surcharge inbuilt in such power purchase cost subject to efficiency norms of distribution loss and / or transmission loss as per Schedule 9A of these regulations.	Uncontrollable
Employee Cost subject to Man / MW ratio adopted by the Commission in Schedule-9A of these regulations for new units commissioned after 31.03.2004	Uncontrollable
Employee Cost subject to Man / MW ratio to the extent considered by the Commission as per its discretion for units commissioned before 31.03.2004	Uncontrollable
Interest rate & Finance Charges rate.	Uncontrollable
Addition or reduction in the Capital loan base on and after the 1 <sup>st</sup> day of the base year of the concerned control period	Uncontrollable
Addition or reduction in the Depreciation of asset on and after 1 <sup>st</sup> day of the base year of the concerned control period	Uncontrollable
Addition or reduction in the equity base on and after the 1 <sup>st</sup> day of the base year of the concerned control period	Uncontrollable
Taxes on Income, Duties, Levies, cess, etc.	Uncontrollable
Non-tariff income as permitted under these regulations	Uncontrollable

Sale volume of electricity	Uncontrollable
Foreign Exchange Rate Variation	Uncontrollable
Unscheduled Interchange	Uncontrollable
Interest on Working Capital as per regulation 4.6.5	Uncontrollable
Insurance premium	Uncontrollable
Effect of rebate / surcharge	Uncontrollable
Income from other business	Uncontrollable
Capital Loan base according to closing balance of last date of the year preceding the base year of the concerned control period	Controllable
Depreciation of assets according to closing balance of last date of the year preceding the base year of the concerned control period	Controllable
Repair and Maintenance item for distribution or transmission system	Controllable
Administrative and General Expense for distribution or transmission system	Controllable
Equity Base subject to ceiling as specified in regulation 4.4.2 and according to closing balance of last date of the year preceding the base year of the concerned control period	Controllable
Man / MW ratio of generating station as adopted by the Commission in pursuance to Schedule 9A	Controllable
O&M expenses for generating station	Controllable
Outsourcing within the period of agreement between the licensee / generating company and the outsourcing agency(ies)	Controllable
Any other item not included in above rows	As may be decided by the Commission from time to time

”

10. After regulation 2.5.6.3 of the principal Regulations, the following regulation shall be inserted:-

“2.5.6.4 Notwithstanding anything to the contrary contained elsewhere in these regulations, the following provisions shall apply during APR of any licensee or generating company for any year:-

- (a) No additional cost shall be allowed in APR on any item of controllable factor over the amount permitted in the tariff order except for specific condition based variation as specified in these regulations.
- (b) The Commission may allow certain additional expenditure through order of APR on any element of controllable item which is included in the working capital base if the rate of inflation is found to be more than 15% with respect to the price of that item at the time of determination of such element of ARR against application for determination of tariff.
- (c) For any uncontrollable factor, the Commission shall apply prudent check and admit such amount under APR according to Commission's discretion. For the uncontrollable items for which the actual expenditure is higher than the amount permitted in the tariff order, the Commission may admit such excess expenditure or a part of it in the APR according to its discretion. In case the actual expenditure is less than the amount admitted in the tariff order, then the actual expenditure will be admitted in APR.
- (d) If the actual expenditure under any sub-head of controllable item of O & M expenses or O&M expenses as a whole, as may be applicable, or on the controllable item of outsourcing is less than 90% of the admitted amount in the tariff order, then the Commission may direct in APR to use such savings below 90% of the projected level in any of the following manner as may be directed by the Commission.

- i) To carry forward such amount for expenses in Repair & Maintenance or human resource skill development programme in future for any generating station or distribution system or transmission system of the licensee or generating company. However, if the concerned generating company or the licensee requests for this carry forward specifically, then the Commission shall allow such carry forward till the period for which such carry forward is requested for or till the end of the concerned control period, whichever is earlier:

Provided that such amount can be carried forward within a control period only after which the accumulated amount on this head for the control period shall be treated under clause (ii) of this regulation.

- ii) To provide such amount in Development Fund under regulation 4.19 of these regulations or in Power Purchase Fund under clause (x) of regulation 4.15.2 of these regulations as per direction of the Commission. Once such excess amount is transferred to the said fund, the concerned licensee or generating company will not have any claim over such amount and it will become a part of the fund for which such fund is created.”
- iii) To use such amount in adjusting the higher expenditure for Repair and Maintenance of other generating stations or distribution system or transmission system of the applicant under review in the same APR.”

11. For the first sentence in the clause (i) of regulation 2.6 of the principal Regulations, the following sentence shall be substituted:

“During the control period for any ensuing year or base year, a generating company or a licensee shall be subjected to an annual performance review covering annual fixed charges, fixed cost, incentives as per schedule-10 and effects of gain sharing on the parameters under schedule-9B which are not covered under the process of FPPCA.”

12. For clauses (iv) and (v) of Regulation 2.6 of the principal Regulations, the following clauses shall be substituted:-

“(iv) While determining fixed cost under any Annual Performance Review, the Commission shall also determine under the order of the APR, the amount to be adjusted with the ARR of the ensuing year for which tariff order is going to be issued. Determination of such adjustable amounts under APR order shall be based on the following factors:

- (a) the difference between the projected amount of fixed cost in the tariff order and the corresponding admissible amount of fixed costs as per APR for the year under APR after taking into account the actual expenditure/entitlement of different elements of fixed cost on which the Commission will have prudence check to determine the admitted amount.
- (b) the admissible incentives as per Schedule-10 for the year under APR after taking into consideration of the actual performance.
- (c) extent of gain sharing as per Schedule-9B for the year under APR for the parameters which are not covered under Fuel and Power Purchase cost determination under FPPCA after taking into consideration of the actual performance.
- (d) the impact for variation between projected sales in tariff order and actual sale in the concerned year and in the process it shall consider both the admissible fixed cost under APR and variable cost under FPPCA on the one hand and revenue realized in

terms of billed amount against both the heads on the other hand.

- (v) The Commission may, at its sole discretion, direct to:-
  - (a) allow whole or part of adjustable amounts determined under APR to be adjusted with the ARR of one or more than one ensuing year for which tariff order is yet to be issued;
  - (b) allow any specific part or whole of such adjustable amounts to be recovered from purchaser of electricity or consumers separately instead of adjusting with the ARR of any ensuing year and balance amount, if any, to be adjusted with the said ARR.”
  - (c) allow, whole or part of any amount that becomes payable by a licensee for purchase of power from another licensee or generating company for any year due to determination of their FPPCA or APR, for adjustment with the ARR of the purchaser licensee for one or more than one ensuing year for which tariff order is yet to be issued.

13. In regulation 2.8.1.4.1 of the principal Regulations, after the last sentence, the following sentence shall be added:-

“On synchronization or Commercial Operation, as the case may be, a new unit which is an extension of any existing generating station shall also be considered as a new generating station or part of a generating station, as the case may be, under these regulations”.

14. After regulation 2.8.1.4.14 of the principal Regulations, the following regulation shall be inserted:-

“2.8.1.4.15 Any investment approval under these regulations shall be deemed to include the conditions that ex-bus energy of each unit of the concerned generating station for which such approval

is accorded shall be metered for recording both the amount of ex-bus energy and generated energy from the very first day of the synchronization along with real time on-line display and monitoring of such metered information at SLDC.”

15. After regulation 2.8.2.5 of the principal Regulations, the following regulation shall be inserted:-

“2.8.2.6 Notwithstanding anything to the contrary contained anywhere in any other regulation of the Commission, the Commission will determine the SLDC charge and Reactive energy charge under the tariff order of the Transmission Licensee which is functioning as STU or through separate order and such charges will be recoverable in a method as may be stipulated in such order or as may be specified in any other regulation of the Commission.”

16. For the first paragraph of regulation 2.8.4.1 of the principal Regulations, the following paragraph shall be substituted:-

“A licensee or a generating company may undertake capital expenditure in small schemes, which do not fall within the capital expenditure programme approved by the Commission in pursuance of regulations 2.8.1.4, 2.8.2.3 and 2.8.3, provided the aggregate expenditure on such schemes does not exceed Rs. 100 crore during the year concerned.”

17. For regulation 2.8.5 of the principal Regulations, the following regulations shall be substituted:-

“2.8.5 Approval of Original Project Cost.

2.8.5.1 After closing of all contracts the original project cost is to be got approved under regulation 2.8.1.4 or 2.8.2.3 or 2.8.3 or 2.8.4 showing the details of deviations from its investment plan along with reasons of such deviations. The submitted details shall

include the audited figures of expenditure on the following heads in the format given in Annexure - 8.

- (a) Package-wise equipment supply cost of relevant items under each package mentioning specific order/ LOA/ Contract Agreement against such package.
- (b) Above package-wise specific testing, erection and commissioning charges for each package along with details to the extent possible.
- (c) Above package-wise specific civil construction cost for each package along with material cost separately for each type of construction material along with quantum.
- (d) Consultancy charges against each of the LOA / Order / Contract Agreement mentioned at (a)
- (e) Cost of any type of management services if outsourced against each of the LOA / Order / Contract Agreement mentioned at (a) or the Project as a whole.
- (f) Specific taxes and duties for each order/ LOA/ Contract Agreement mentioned at (a).
- (g) Project specific insurance cost or specific insurance cost for each order/ LOA/ Contract Agreement mentioned at (a).
- (h) Specific transportation charges for each order/ LOA/ Contract Agreement mentioned at (a).

2.8.5.2 During the project construction period, the incurred capital expenditure and other expenditure under project cost shall also be audited annually according to each package separately with specific reconciliation of supplied items against the said

expenditure along with the status of erection and commissioning. Such audit report / certificate is to be submitted to the Commission within the 30<sup>th</sup> September of the succeeding year, along with a report of actual progress against the scheduled programme in terms of package-wise material supply position, actual status and programme of construction / erection, testing and commissioning programme and status of payment against the schedule of payment along with related conditionality of the schedule of payment for each package.

- 2.8.5.3 For each package under a project, the contract is to be closed within two years of COD of the last package. For new generation project or distribution project or transmission project or R&M project of generating plant the owner of such project shall disclose the operational status of each equipment of such packages as well as deviation, if any, in specification of such installed equipment from that of the contract agreement/ order, through a third party certification by a reputed engineering firm not involved in the execution of the package from any side. Such report shall also show whether the provision of different penalty(ies) or incentive (s) of contractual conditions were duly applied or not. The fact of waiver or non-application of penalty or incentive shall be specifically mentioned along with the grounds cited by the concerned licensee or generating company for such waiver or non-application of penalties or disincentives. Such analysis shall be given against each such provisions of penalty(ies) or incentive(s) specifically stipulated in the contract. Only on submission of such reports the final project cost of such generation project or distribution project or transmission project will be determined.”

18. After regulation 2.8.6.2 of the principal Regulations, the following proviso shall be inserted:-

“Provided that such sharing of gain as per Schedule – 9B shall be applicable for a generating station of a generating company or licensee only for that part of the installed capacity which is exclusively dedicated for supply of electricity to any consumer or licensee under the purview of the Commission.”

19. After regulation 2.8.6.4 of the principal Regulations, the following proviso shall be inserted:-

“Provided that such incentive as per Schedule -10 shall only be applicable for a generating station of a generating company or licensee for that part of installed capacity which is exclusively dedicated through PPA for supply of electricity to any licensee under the purview of the Commission.”

20. After regulation 2.8.6.11 of the principal Regulations, the following regulation shall be inserted:-

“2.8.6.12 The period(s) of shut down arising out of the need for performance guarantee test of any new generating unit shall be excluded from determination of the above mentioned achievement of operating norms under Schedule 9A of these regulations subject to the condition that such shut-down period(s) shall be considered to be one month or the actual, whichever is less, for consideration of achievement of norms of Schedule 9A and if such shut-down is undertaken with prior notice to SLDC. However, for incentive or gain sharing computation under Schedule-10 and Schedule- 9B respectively of these regulations such period will be included for determination of different target performance on the basis of which incentive will be provided.”

21. For the first sentence of regulation 2.8.7.1 of the principal Regulations, the following sentence shall be substituted:

“For 2008-09 and for each subsequent ensuing year or base year the fuel and power purchase cost admissible under the process of FPPCA in respect of a generating company or a licensee shall be worked out as per the relevant formula as specified in Schedule-7, as amended, and that shall also include the impact of gain-sharing as per schedule – 9B related to the parameters of fuel cost, power purchase cost and transmission and distribution loss.”

22. After regulation 2.8.7.5 of the principal Regulations, the following regulation shall be inserted:-

“ 2.8.7.6 If any recoverable amount, determined by the Commission in APR or FPPCA for a base year or any ensuing year of a generating company or licensee, is adjusted with the ARR of that generating company or licensee for an ensuing year and there is excess or less recovery than the amount so adjusted for any reason whatsoever, such excess or less recovery shall be adjusted in APR of that generating company or licensee for any subsequent ensuing year.”

23. For regulation 2.8.8.1 of the principal Regulations, the following regulation shall be substituted:

“2.8.8.1 Notwithstanding anything to the contrary contained anywhere else in these regulations, the Commission shall adopt the tariff for supply of electricity by a generating company to a distribution licensee if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government:

Provided that the owner of the generating station(s) shall apply to the Commission for adoption of such tariff showing the capacity charge and energy charge separately for different years along with all documents starting from tender/bid inviting process to final evaluation stage:

Provided further that the bidding documents and qualifying criteria of such competitive bidding as mentioned above shall be such that at least two bidders qualify upto the final stage of bidding failing which the results of this competitive bidding will not be taken cognizance of by the Commission:

Provided further that the applicant shall provide such information as the Commission may require to satisfy itself that the guidelines issued by the Central Government have been duly followed:

Provided also that any special purpose vehicle formed for conducting such competitive bidding as per guidelines of the Central Government shall not have any equity of the participating bidders.”

24. After regulation 2.10.9 of the principal Regulations, the following regulations shall be inserted:-

“2.10.10 If any regulation of the principal Regulations is amended, then the existing tariff order will continue till the next tariff order is issued.

2.10.11 If any principle used in the determination of ARR related to fixed cost for the ensuing years of second or first control period is found to be inconsistent with any subsequent amended regulations, then during APR of that year the same principle adopted in tariff order of the 1<sup>st</sup> ensuing year of the concerned control period will be followed:

Provided that from the second control period and onwards the capacity charge may be allowed to be recovered on the basis of regulation 5.4.3 of these regulations to the extent as may be decided by the Commission”

25. After regulation 2.11 of the principal Regulations, the following regulations shall be inserted:-

**“2.12 Mitigation of Regulatory Uncertainty and Risk.**

- 2.12.1 In order to remove any uncertainty in electricity business any licensee or generating company may submit any application to the Commission for getting ‘in principle’ clearance on any issue and/or for incurring any expenditure which may have an impact on the tariff of the licensee or generating company prospectively:

Provided that in issuing such ‘in principle’ clearance, the Commission shall follow such procedure as is deemed necessary.

- 2.12.2 Notwithstanding anything to the contrary contained anywhere else in these regulations or in any other regulations of the Commission, the distribution licensee may purchase electricity from any other source(s) at any price over the stipulated price of procurement as provided in the tariff order, if it is found to be beneficial to the consumers on any of the following ground(s).

- (i) If there is shortage in power and such purchase price is less than the rate of UI charges or prices available through power exchange whichever is higher for the relevant time block.
- (ii) If the impact of such purchase results in less aggregate revenue requirement for the sale of electricity by the licensee to those for whom the Commission determines the tariff/ price of electricity.

Against each such transaction the licensee shall prepare cost benefit analysis in terms of the above conditionality and preserve those records, so that, if necessary, the Commission

may scrutinize such records for validation whenever deemed necessary.

- 2.12.3 The licensee and generating company shall prepare the annual accounts in such a manner that all its expenditure and income on different heads are mentioned distinctly and separately with necessary notes and description or additional schedule or auditor's certificate from the same auditor of the annual account so that the Commission can take a proper view on each such head while determining the tariff:

Provided that wherever such transparency is not adequately reflected in the annual accounts through distinctly separate notes and description or additional schedule or auditor's certificate from the same auditor of the annual account, as for example, if any expenditure under any head entitled 'others' or 'miscellaneous' or any other terminology which is non-specific, such expenditure may be disallowed by the Commission while determining the ARR.

- 2.12.4 Notwithstanding anything to the contrary contained anywhere else in these regulations, if any activity of any generating company or licensee which needs governance under any regulation is found to have started prior to coming into force of such regulation, then in such case the generating company or licensee shall bring to the notice of the Commission such fact and the Commission may dispose of such matter in such a way so that the licensee or generating company does not face any loss due to any reason(s) that was needed to be addressed before coming into force of such regulation. However, where any prospective measure can meet the need of such regulation,

the Commission may give appropriate direction if deemed necessary.”

26. After regulation 3.8.2 of the principal Regulations, the following regulations shall be inserted:-

“3.8.3 In addition to existing rebate / surcharge on power factor applicable on the certain classes of consumers, the rebate and surcharge on power factor shall also become applicable for all HT / EHT consumers and the following LT consumers at a rate as will be stipulated in the tariff order from a date as given below or after that date as may be stipulated in the tariff order.

Category of Consumers	Date of introduction of rebate / surcharge on Power Factor
HT & EHT	Within 1 <sup>st</sup> April, 2010
LT Industrial	As on 1 <sup>st</sup> April, 2011
LT Commercial having Contract Demand 10 KVA and above	As on 1 <sup>st</sup> April, 2012
LT Public Water Works	As on 1 <sup>st</sup> April, 2012

- 3.8.4 All distribution licensees shall install power factor controllers for all LT consumers with contract demand of 5 KVA and above except LT industrial and LT public water works consumers and LT commercial consumers having contract demand of 10 KVA and above in a phased manner as per the following schedule.

LT consumers (excluding LT industrial and LT public water works consumers and LT commercial consumers having contract demand 10 KVA or above) having contract demand	Target date of completion of installation of power factor controller
10 KVA and above	31 <sup>st</sup> March, 2011
8 KVA and above	31 <sup>st</sup> March, 2012
5 KVA and above	31 <sup>st</sup> March, 2013

- 3.8.5 The following consumers shall install power factor controller / capacitor bank at their own cost in such manner as stipulated by the distribution licensee as per the following programme.

Type of consumer	Target date of completion of installation of power factor controller
HT / EHT	31 <sup>st</sup> March, 2010
LT Industrial	31 <sup>st</sup> March, 2011
LT Public water works	31 <sup>st</sup> March, 2012
LT Commercial consumer having contract demand of 10 KVA or above	31 <sup>st</sup> March, 2012

- 3.8.6 Where the power factor controller is not commissioned or not put into service properly as reflected from recorded data of different parameters in the meter after the date as specified in regulation 3.8.5 of these regulations, the consumer may be required to pay power factor surcharge in a manner and as per terms and conditions as may be stipulated by the Commission in this regard in the respective tariff order.

- 3.8.7 The Commission may, if required, reschedule the time frame of regulation 3.8.3, 3.8.4 and 3.8.5 of these regulations through subsequent order(s)."

27. For regulation 3.9.2 of the principal Regulations, the following regulations shall be substituted:-

- "3.9.2 For the purpose of billing, the load factor of a consumer for a billing month shall be determined in accordance with the following formula:

$$\text{Load Factor (\%)} = \frac{\text{Energy Consumed in Kwh for the billing period} \times 100}{(H - \sum H_i) \times MD + \sum (H_i \times RD_i)}$$

Where

$H$  = Total Hours in the billing period

$MD$  = Maximum Demand for Load Factor Calculation

= Recorded maximum demand in the billing period or 85% of the contract demand whichever is higher

$H_i$  = The duration involved for  $i$ th incidence of interruption / total shed/ partial restriction on load in supplying power to the consumer by the licensee as specified under regulation 3.9.3 of these regulations.

$RD_i$  = Restricted load imposed on the consumer corresponding to  $i$ th incidence or actual drawal during the period of such restriction whichever is higher.

3.9.3 The computation of load factor rebate and surcharge shall exclude that period which is a part of the concerned billing period and when load of the consumer is interrupted/ totally shed / partially restricted because of any fault of the licensee in its system or for non-availability of power with the licensee due to lower supply of electricity from its own generating source or its other suppliers of power or due to imposition of restriction on load by the licensee on drawal of power by its consumer. Such interruption shall also include the interruption caused by the grid failure or automatic under frequency relay tripping or any force majeure event not related to licensee.

3.9.4 For the purpose of load factor calculation as provided in regulation 3.9.2 of these regulations, the following principles shall be followed :

- i) If Maximum Demand (MD) is in KVA, it shall be converted into KW by using the formula :  $KW = KVA \times PF$ , where PF is the power factor.

- ii) If  $RD_i$  is in KVA, it shall be converted into KW by using the formula :  $KW = KVA \times PF$ , where PF is the power factor.
  - iii) PF shall be considered as average power factor of the month when 85% or less of the contract demand is recorded maximum demand.
  - iv) When maximum demand (MD) represents actual recorded maximum demand, which is higher than 85% of contract demand, PF will be the actual average power factor of the time block corresponding to the period of recording the maximum demand
  - v) For total shedding or interruption,  $RD_i$  shall be considered as zero.”
28. After regulation 3.12.5 of the principal Regulations, the following regulations shall be inserted:-
- “3.12.6 The consumer opting for pre-paid meter shall not be required to furnish any security deposit for the energy charge.
- 3.12.7 No meter rent shall be applicable if the meter is supplied by the consumer.”
29. For regulation 3A.3.1 of the principal Regulations, the following regulation shall be substituted:-
- “3A.3.1 Demand charge will be applicable to all HV and EHV consumers and also to those LV and MV consumers who have contract load of 30 KVA or above and at a rate as stipulated in the respective tariff order. Demand charge will also come into force for the following classes of consumers at a rate as stipulated in the respective tariff order as per the following schedule.

Category of Consumers	Earliest Date of introduction of Demand charge
LT Industry	1 <sup>st</sup> April 2011
LT Commercial having Contract Demand 10 KVA and above	1 <sup>st</sup> April 2012
LT Public Water Works	1 <sup>st</sup> April 2012

However, if required the Commission may reschedule the above time frame through subsequent order(s).“

30. For regulation 3A.3.6 of the principal Regulations, the following regulation shall be substituted:-

“3A.3.6 No demand charge shall be payable by any consumer for that period when load of the consumer is interrupted/ totally shed/ partially restricted because of any fault of the licensee or its system or for non-availability of power with the licensee due to lower availability of power from its own generating station and / or its other suppliers of power or imposition of any restriction by the licensee on drawal of power by consumer. However, such exemption from demand charge shall not be available if the interruption is caused by grid failure or automatic under-frequency relay tripping or any force majeure event not related to licensee or due to disconnection of supply for any fault on the part of the consumer. Accordingly, after taking into consideration regulations 3A.3.1, 3A.3.3, 3A.3.4, and 3A.3.5, the demand charge in a billing period for a consumer shall be determined in accordance with the following formula:

$$DC = DC_A \times \frac{(H - \sum H_i) \times MD + \sum (H_i \times RD_i)}{H}$$

Where

DC = Computed Demand Charge applicable to a consumer for billing period

DC<sub>A</sub> = Applicable rate of demand charge for a consumer.

$H$  = Total hours in the billing period.

$H_i$  = The duration involved for  $i$ th incidence of interruption / total shed / partial restriction in supplying power to the consumer which is not be considered as per this regulation.

$MD$  = Maximum Demand considered for levying demand charge as per regulation 3A.3.5.

$RD_i$  = Restricted load imposed on the consumer corresponding to  $i$ th incidence or actual drawal during the period of such restriction whichever is higher”

31. For regulation 3A.3.7 of the principal Regulations, the following regulations shall be substituted:-

“3A.4 If in a 15 minutes time block a consumer draws power more than the restricted drawal, if any, imposed by a licensee then the consumer will pay additional energy charge at a rate twice the applicable rate for that consumer at that time block. Such additional energy charge shall be payable in addition to the amount that is payable as energy charge for consumption of energy in that particular time block.

3A.5 If the supply is disconnected by the distribution licensee at the request of the consumer, the agreement of supply with the consumer shall stand terminated from the date of disconnection. This is, however, without any prejudice to any other compensation if the consumer is entitled to such compensation because of applicability of any other law for the time being in force or the Electricity Act 2003 or the Regulations made thereunder.

3A.6.1 If a consumer, having a captive generating plant, takes stand-by supply of energy from a distribution licensee in respect of the

premises where electricity is drawn from its captive generating plant and also sells surplus energy from that captive generating plant to the same distribution licensee, the demand charge of such consumer shall not be more than 50% of the applicable rate of demand charge for such category of consumers subject to the following conditions:-

- (i) there shall be firm allocation of surplus capacity of the captive generating plant for sale of energy to the distribution licensee and that shall not be less than 5 MW;
- (ii) total surplus generation from that captive generating plant is sold to the distribution licensee(s) within the State;
- (iii) tariff of such surplus energy from that captive generating plant to be sold to the distribution licensee(s) shall be determined by the Commission on normative parameters as specified or will be specified in Schedule-9A or stipulated in relevant tariff order:

Provided that for the plant whose allocated capacity for such sale of electricity is 25 MW or less, the distribution licensee can decide the price through negotiation subject to the ceiling that such price does not exceed the maximum power purchase cost of that distribution licensee from the sources for which the tariff is determined through regulatory process and is of the same type (such as thermal, hydros etc.):

Provided also that for the plant of capacity allocated for such sale below 100 MW but above 25 MW, operating norms will be set by the Commission and purchase price will be determined by the licensee on the basis of such

norms through negotiation subject to ceiling that such prices does not exceed the maximum power purchase cost of that distribution licensee from the sources for which the tariff is determined through regulatory process and is of same type (such as thermal, hydros, etc.).

Provided further that if such electricity purchased from such captive source is found to be in excess of the need of the power to feed its consumer and other licensee of the State, then the distribution licensee may purchase such power through negotiation only without following the steps specified in earlier provisos.

- (iv) a PPA shall be executed by such consumer for sale of such energy from his captive generating plant to the distribution licensee for a period not less than ten years.

3A.6.2 A captive generating station shall be allowed to bank its generation with a distribution licensee, if at least 25% of tis annual actual generation of such captive generating station is sold to the distribution licensee provided that such distribution licensee agrees to such banking mechanism through PPA and subject to the conditions as specified in clause (i), (ii), (iii) and (iv) of regulation 3A.6.1.

Provided that such banked energy can be drawn by the owner of the captive generation at its drawal point in a barter mode in accordance with the terms and conditions as laid down in the PPA.

Provided also that for such banking arrangement and subsequent drawal in barter mode of energy from the distribution licensee the Transmission and Distribution losses of energy and wheeling charges for using distribution network of the distribution licensee can be mutually settled by the

distribution licensee and the owner of the captive generation in their PPA, so long it is not against the interest of the consumer and after finalization of the PPA the same shall be sent to the Commission for concurrence.”

32. The words and sign ‘HV/EHV’ wherever they occur in regulation 3A.7.1 of the principal Regulations shall be deleted.

33. The words and sign ‘HV/EHV in regulation 3A.7.2 of the principal Regulations, shall be deleted.

34. For regulations 3A.7.3, 3A.7.3.1, 3A.7.3.2 and 3A.7.3.3 of the principal Regulations, following regulation shall be substituted:-

“3A.7.3 In case of application of regulation 3A.3.6 in a month the additional demand charge computed as per regulation 3A.7.1 or 3A.7.2 shall further be adjusted through reducing the amount by a multiplying factor of  $DC/(H \times MD \times DC_A)$  where DC,  $DC_A$ , H and MD are specified in regulation 3A.3.6”

35. For regulation 3A.11 of the principal Regulations, the following regulation shall be substituted:-

“3A.11 When a licensee bills a consumer for consumption of electricity covering only a part of month caused by discontinuance of consumership before the expiry of a full month, the computation of fixed charge or demand charge shall be made for the entire month excepting for such consumers under the short-term supply for whom such billing shall be pro-rata for the number of days for such supply in that particular month.”

36. For regulation 3A.15 of the principal Regulations, the following regulation shall be substituted:-

“3A.15 For the purpose of these regulations, the contract demand shall mean the electrical load in horse power (HP) or Kilo Watt (KW) or in Kilo Volt Ampere (KVA) which, in accordance with the signed contract or agreement between the licensee and the consumer, the licensee has committed to deliver and the consumer has right to draw at the delivery

point of the consumer at any or all time during the currency of the contract or agreement. For the purpose of these regulations, the contract demand shall also mean any of the following words that might have been incorporated in the agreement between the consumer and the licensee such as contract load or contracted load or sanctioned load. Where the term connected aggregated installed capacity or installed capacity or connected load is used in such agreement, in such case the contract demand will be arrived at as per the following formula.

$$\text{Contract Demand} = \frac{\text{Annual Consumption in Unit}}{\text{Number of days in year} \times 24}$$

Such contract demand shall be intimated to the consumer for revision, if any, and if no request for such revision is received from the consumer within three months from the date of receipt of such intimation by the consumer, then such calculated contract demand shall be considered as contract demand under the agreement and for the purpose of these regulations. However, this revision of contract demand shall not be considered for the purpose of load reduction under the regulations related to Standard of Performance specified under section 57 of the Act.”

37. After regulation 3A.15 of the principal Regulations, the following regulations shall be inserted:-

“3A.16 All statutory levies like Electricity Duty or any other taxes, duties, cess etc. imposed by the State Govt. / Central Govt. or any other competent authority on sale of electricity shall be extra and shall not be a part of the tariff as determined under these regulations.

3A.17 For any pre-paid and TOD tariff scheme, other charges shall be the charges applicable to consumers under respective category of non-TOD tariff.

- 3A.18 All billing parameters of a bill shall be construed for a billing period only, which has been specified by the Commission, irrespective of the date on which the meter reading is taken in accordance with any regulation made by the Commission.
- 3A.19 In case the contract demand in KW or KVA is not available, it can be converted from KVA considering 0.85 as power factor or vise-versa whenever it is necessary for determination of any issue in relation to tariff or category of consumers.
- 3A.20 In order to remove noise from the system the Commission may introduce rebate and / or surcharge to any class of consumers through any formula on the basis of any form of measurement of harmonics and applicable from a date which will be stipulated in any tariff order.
- 3A.21 Notwithstanding anything to the contrary contained in these regulations, the fixed charge for a consumer shall not be differentiated according to the period or time of a year.
- 3A.22 The demand charge of any consumer may be differentiated to the extent of such part of demand charge which does not include the fixed charge component within the demand charge as specified in regulation 3A.3.2 of these regulations.”
38. After clause (viii) of regulation 4.1 of the principal Regulations, the following clauses shall be inserted:-
- “(ix) For any new generating station for which tenders for supply of plants and equipments have been invited after 15.10.2007 and whose project cost is not determined / approved under these regulations, the concerned generating station shall submit all the information as required under regulation 2.8.1.4 to the Commission and obtain approval of the Commission before electricity is supplied by that

generating station to the distribution licensee at a tariff determined under section 62 of the Act.

- (x) If the tariff of any generation station of a generating company or licensee is adopted under section 63 of the Act and subsequently the generating company or licensee, as the case may be, intends to have the tariff determined for that generating station under section 62 of the Act, then the licensee/ generating company shall submit all information as required under regulation 2.8.1.4 to the Commission and obtain the investment approval of the Commission before electricity is supplied by that generating station to the distribution licensee at a tariff determined under section 62 of the Act ”

39. After regulation 4.6.1.6 of the principal Regulations, the following provisos shall be inserted:-

“Provided that tariff determination related to such asset is not done in accordance with availability based tariff determination mechanism:-

Provided further that where the actual value of equity corresponding to such inoperative asset is not available and such asset is commissioned prior to coming into force of the Act, the Commission shall determine the deemed value of equity for such asset for tariff determination purposes as follows:

- (a) For a generating station the value of equity of the inoperative unit of a generating station for tariff determination purpose only, shall be:-

$$E_{\text{unit}} = \left( \frac{E_{\text{tot}} \times IC_{\text{unit}}}{\sum IC_{\text{unit}}} \right) \times (0.9085)^{A_{\text{unit}}}$$

Where,

$E_{\text{unit}}$  = Deemed Equity of inoperative unit under consideration.

$E_{\text{tot}}$  = Actual Equity against the concerned generating station.

$A_{\text{unit}}$  = Age difference of the latest unit and the concerned

inoperative unit.

$IC_{unit}$  = Installed capacity of the inoperative unit under consideration.

$\sum IC_{unit}$  = Summation of the installed capacity of the generating station i.e. total installed capacity of the concerned generating stations.

- (b) For transmission or distribution system for inoperative transmission or distribution transformers or line, 15% of the value of a comparable asset at present day price level will be considered as the equity value of such inoperative transmission or distribution asset in relation to tariff determination purpose only.
- (c) Where project cost of any asset is available, then instead of using the methodology under (a) or (b) above, 30% of such project cost or the ratio in % of actual equity, whichever is less, will be considered for tariff determination purpose only as equity of such project and the equity for inoperative portion will be determined in proportion to the effected installed rated capacity of such inoperative portions to installed rated capacity of the total asset for the purpose of tariff determination only.
- (d) For the purpose of determination of age of any unit of a generating station, the available date of any period of synchronization or COD, whichever is later, will be applicable:

Provided also that where actual value of equity for any particular unit of a generating station is available, then the equity for such unit shall be taken on the basis of actual value and for the balance units of the generating station the methodology mentioned under (a) or (b) or (c) shall be applied prudently by considering the balance units of the generating station.”

- 40. After regulation 4.6.1.6 of the principal Regulations, the following regulation shall be inserted:-

“4.6.1.7 Return on equity shall be applicable to that portion of the equity only which is in use under the business operation for which gross aggregate revenue requirement is to be determined and not invested in any security or other business.”

41. After clause (viii) of regulation 4.6.2 of the principal Regulations, the following provisos shall be inserted:-

“Provided that tariff determination related to such asset is not done in accordance with the availability based tariff determination mechanism.

Provided further that where actual book value of the asset corresponding to such inoperative asset is not available and such asset is commissioned prior to coming into force of the Act, the Commission will determine the deemed book value for such asset for tariff determination purposes in the following manner:-

- (a) For generating station the deemed book value of asset of the inoperative unit of a generating unit for tariff determination purposes only, is

$$VA_{\text{unit}} = \left( \frac{VA_{\text{tot}} \times IC_{\text{unit}}}{\sum IC_{\text{unit}}} \right) \times (0.9085)^{A_{\text{unit}}}$$

Where,

$VA_{\text{unit}}$  = Deemed Book Value of inoperative unit under consideration.

$VA_{\text{tot}}$  = Actual Book Value against total power stations concerned.

$A_{\text{unit}}$  = Age difference of the latest unit and the concerned inoperative unit.

$IC_{\text{unit}}$  = Installed capacity of the inoperative unit under consideration.

$\sum IC_{unit} =$  Summation of the installed capacity of the generating station i.e. total installed capacity of the concerned generating station.

- (b) For inoperative transmission or distribution transformers or line in any transmission or distribution system, 15% of price of a comparable asset in terms of vintage will be considered as deemed book value of such inoperative transmission or distribution asset for tariff determination purposes only:-
- (c) Where project cost of any asset is available but book value of such asset is not available then instead of methodology under (a) or (b), admissible project cost shall be considered as opening value of such gross fixed asset.
- (d) For the purpose of determination of age of any unit of a generating station, the available date of any period of synchronization or COD, whichever is later, will be applicable.

Provided also that where actual value of asset for any particular unit of a generating station is available, then the asset for such unit shall be taken on the basis of actual value and for the balance units of the generating station the methodology depicted under (a) or (b) or (c) shall be applied prudently by considering the balance units of the generating station.”

- 42. Regulation 4.6.3.3 of the principal Regulations shall be deleted.
- 43. After the clause (ii) under regulation 4.6.4.2 of the principal Regulations, the following proviso shall be inserted.  

“Provided that such normative capital loan as specified in regulation 4.4.2 is invested in creation of fixed asset to the concerned activity of electricity business of the licensee or generating company.”
- 44. For the first paragraph of clause (vi) of regulation 4.6.4.2 of the principal Regulations, the following paragraph shall be substituted:-

“No interest during construction for any unit of a generating station shall be allowed to be capitalized for the period beyond the schedule date of commercial operation (COD) as set out in the contract agreement of boiler and/or turbine-generator or the COD as per norms under Schedule-9C, whichever is earlier subject to force majeure events. However, no interest during construction for any unit of a generating station whose order for construction has been placed before 15.10.2007 shall be allowed to be capitalized for the period beyond the schedule date of commercial operation (COD) as set out in the contract agreement of boiler and/or turbine-generator or the COD as per norms under Schedule-9C, whichever is later. For common assets covering more than one unit of the generating station, it will be considered on the basis of proportional allocation to the installed capacity of the unit concerned with reference to the total installed capacity of the project under consideration. Such interest during construction, which has been disallowed to be capitalized, shall also not be allowed to be recovered subsequently through tariff in any form.”

45. For clause (i) of regulation 4.7.2 of the principal Regulations, the following clause shall be substituted:-

“(i) Rent and lease charge for asset other than generating stations.”

- 46(i) At the end of clause (iii) of regulation 4.8.1 of the principal Regulations, the following words, sign and figures shall be inserted:-

“Gcal =  $10^9 \times 1$  Calorie”

- 46(ii) After clause (vii) of regulation 4.8.1 of the principal Regulations, the following clause shall be inserted:-

“(viii) Incase the price of coal from any indigenous captive coal mine of any licensee or generating company is determined by any statutory body or through any government order, such price will be applicable and in that case the methodology of price determination under clause (iii) will not be applicable.”

47. For regulation 4.8.2 of the principal Regulations, the following regulations shall be substituted:-

“4.8.2 The sourcing of coal besides linkage based allocation policy of the Government of India, such as through e-auction or any other means of auction or any other mechanism from indigenous source shall be allowed by the Commission for consideration of that price for fuel cost determination purpose subject to satisfaction of any of the following conditions.

- (a) Coal price is less than the administered coal price of same grade available through linkage based allocated coal.
- (b) It can be established that procurement of such coal will be ultimately beneficial to the consumers of the State and for that purpose prior in principle clearance is obtained from the Commission.
- (c) In power shortage scenario procurement of coal through such mechanism does not increase the fuel cost, as approved in ARR, by more than 10% provided that allocation of coal through linkage from concerned Ministry of Government of India is not sufficient to harness the total potentiality of available generation capacity and there is sufficient evidence of power shortage which is required to be submitted while claiming such coal price.

4.8.3 Any generating company or licensee can procure coal from any other source at a price within the price discovered through e-auction mechanism of Coal India Limited or its subsidiaries or any government company or government/ statutory authority on the date of procurement subject to satisfaction of any of the

three conditions as specified in regulation 4.8.2 of these regulations.

- 4.8.4 Any generating company or licensee can procure coal from any source through negotiation for firm supply from dedicated source at a price within the ceiling of the average price discovered through e-auction of Coal India Limited or any government company or government/ statutory authority in the last one year preceding to the year when agreement took place subject to satisfaction of any of the three conditions as specified in regulation 4.8.2 of these regulations.

Provided that if such negotiated price exceeds the above specified ceiling then the generating company or licensee shall take prior approval of the Commission through submission of an application justifying its requirement.

- 4.8.5 In case of sourcing coal from overseas through competitive bidding based procurement in a transparent manner, the Commission will adopt the price of such coal subject to prudence check by the Commission and subject to satisfaction of the Commission regarding ensuring of competitiveness in the bidding process and also subject to proof that there is either shortage in required quantity of coal of the desired quality in the country or such procurement will ensure ultimate lower tariff to the consumers of the State.

- 4.8.6 In case of sourcing coal from own coal mines in overseas foreign country, the generating company or licensee shall submit all relevant information in support of the price of the coal inclusive of copies of different deals, agreement, freight, expenditure under different heads etc. On the basis of such documents and available international price on the basis of

competitive bidding or available from international market mechanism, the Commission will decide the procurement price of the coal for the purpose of tariff determination under the Act.

- 4.8.7 Notwithstanding anything to the contrary contained elsewhere in these regulations if the price of coal sourcing from foreign country is determined under any regulatory mechanism of that country, then the Commission will adopt such price as a basis for arriving at the landed cost of such coal for tariff determination.
- 4.8.8 In case of any increase in price of fuel or railway freight or taxes/ duties / royalty / cess on fuel at any time after issue of a tariff order for a year or due to sourcing of coal in terms of regulations 4.8.2 to 4.8.7 in larger quantity than that admitted in the tariff order, the Commission may in order to reduce future tariff rise, allow provisionally an ad-hoc fuel cost and / or power purchase cost either suo-moto or on the basis of an application filed by a generating company or a licensee subject to final determination of such charges on receiving application for determination of FPPCA for that year and in such case such ad-hoc cost shall be considered as part of the tariff prevailing at that time.”
48. After regulation 4.9.2 of the principal Regulations, the following regulations shall be inserted:-
- “4.9.3 The licensee or generating company shall provide the break up of employee cost in Form 1.17(h) in Annexure-1.
- 4.9.4 The licensee or generating company shall provide the break up of arrear payment in Form 1.17 (i) in Annexure-1 arising out of any wage revision and the period for such arrear is to be mentioned clearly. In case of any wage revision, the licensee or

generating company shall also submit the concerned agreement and official order along with the approval of the Board of the generating company or licensee on such wage revision.

- 4.9.5 Performance incentive based on efficiency of operating parameters of the generating company or licensee which is applicable to the employee, if any, must be shown in a separate head in annual accounts and cannot be included under employee cost or any other head. However, the Commission will not allow such cost for production incentive payment to be recovered through tariff except those components of wage which ensures attendance and compliance with job norms of the employees. If required, a special note is to be inserted in the annual accounts or a certificate from the same auditor who has audited the annual accounts has to be furnished to show separately the expenses on head of performance or production incentive.
  - 4.9.6 The licensee or generating company shall provide the information under regulation 4.9.3 and 4.9.4 for regular employees and contracted manpower in regular establishment separately.
  - 4.9.7 Interest payment to Contributory Provident Fund, General Provident Fund or any statutory retirement benefit fund shall not be considered unless it is explicitly established that inspite of investment of such fund in prudent and timely manner and management of fund effectively there is shortfall in accrued interest to discharge the liability of statutory interest as laid down in concerned laws or there is provision of special dispensation under Section 131 of the Electricity Act 2003.”
49. For regulation 4.11.2 of the principal Regulations, the following regulation shall be substituted:-

“4.11.2 For failure to comply with the provisions of the regulation 4.11.1 and 4.24.1, double the amount allowed under the head reserve for unforeseen exigencies in any tariff order of a year shall be deducted from the re-determined ARR during APR of any year and such amount shall be put into the Fund for unforeseen exigencies or passed on to the consumer through order of any APR.”

50. At the end of regulation 4.13.1 of the principal Regulations, the following sentence shall be inserted:-

“Such taxes of any year shall be passed through tariff subject to submission of assessment order of the concerned year along with the APR or tariff order of any subsequent year. However the amount of minimum alternate tax and self assessed income tax as deposited for the concerned year will be allowed without the assessment order.”

51. After regulation 4.13.2 of the principal Regulations, the following regulation shall be inserted:-

“4.13.3 In case any tax paid against income/ services under other sources or non-tariff income which are considered in ARR, such taxes will also be passed through tariff.”

52. After regulation 4.14.1 of the principal Regulations, the following proviso shall be inserted:-

“Provided that the expenditure against any statutory provision such as taxes, duties, cess etc. shall only be passed through APR on submission of assessment order or any valid document mentioning the reasons of such payment.”

53. For regulation 4.14.2 of the principal Regulations, the following regulations shall be substituted:-

“4.14.2 Any expenditure arising out of contravention or non-compliance of any statutory provision under any Act or rules or regulations

or non-compliance of any order of judicial body or statutory body shall not be allowed to be passed through tariff and for that purpose, the licensee or the generating company shall specifically mention such expenditure in Form 1.17(j) in Annexure-1 of these regulations along with the relevant order of the authority:

Provided that while submitting application for APR, the licensee or generating company shall submit the details along with the documents of the concerned authorities for any payment made under the head as mentioned under the regulation 2.2.7 and in case no such payment has been made in the concerned year, the applicant has to give a clear declaration for such non-payment in that year in Form 1.17(j) in Annexure-1 of these regulations.

- 4.14.3 Insurance shall be treated as a separate head for consideration under ARR determination and will be allowed by the Commission if such insurance is done through a transparent process.
  - 4.14.4 The Commission may withhold any amount for non-compliance of its directives or non-submission of information properly as sought for in the regulations.”
54. For clause (iii) of regulation 4.15.2 of the principal Regulations, the following clause shall be substituted:-
- “(iii) For better performance than the operating parameters, benefit of gain-sharing will be provided in accordance with the provisions of Schedule – 9B between the generating company/ distribution licensee and purchaser of electricity for whom tariff/ price of electricity is determined under these regulations.”

55. For clauses (vii) and (viii) of regulation 4.15.2 of the principal Regulations, the following clauses shall be substituted:-
- “(vii) Where the distribution licensee has derived any extra means of income from auxiliary services then an amount equal to 40% of the revenue from such other services after deducting the direct and indirect costs attributed to such auxiliary services shall be deducted from the gross aggregate revenue requirement in calculating the revenue requirement for distribution licensee.
- (viii) In respect of the period prior to 31.03.2008, the sharing of any gain out of such income as mentioned in clauses (i) to (vii) during such period shall not be recovered, if such gain is invested by the licensee or the generating company for its business.”
56. After clause (viii) of regulation 4.15.2 of the principal Regulations, the following clause shall be inserted:-
- “(ix) Notwithstanding anything to the contrary contained in clauses (i) to (viii), the Commission may at its discretion in order to avoid future irregular variation in tariff, direct a generating company or a licensee to create a fund to be known as Power Purchaser Fund and credit any or full share of the consumers/power purchaser arising out of any provision contained in clause (i) to (viii) or part thereof to that Power Purchaser Fund. The amount in the Power Purchaser Fund shall be considered as regulatory liability and may be used to control increase in tariff in future. The generating company or licensee shall maintain separate accounts of the Power Purchaser Fund, get such accounts audited by a certified Auditor, and submit such audit report to the Commission every year.”
57. After regulation 4.19 of the principal Regulations, the following regulations shall be inserted:-

**“4.20           Income from Other Sources / Non-tariff income**

4.20.1           Income from other sources or non-tariff income shall be shown against each type of income separately and it shall be clearly mentioned in books of account for each type separately and distinctly.

4.20.2           Income from other sources or non-tariff income shall be allocated to that part of electricity business of a licensee or generating company under which such income has taken place.

Provided that where such segregation is not possible then it will be allocated in proportion to gross aggregate revenue requirement for each part of electricity business.

**4.21           Research and Development Expenditure.**

4.21.1           The Commission may allow a licensee or a generating company an expenditure on account of Research & Development upto 0.10% of the ARR of the preceding year for the year for which ARR is determined.

4.21.2           Such expenditure on Research & Development will be allowed only when there is prior project-wise approval from the Commission or where the Commission has directed to undertake any such project.

4.21.3           Such project(s), if approved or directed by the Commission, shall be conducted through own in-house resource or through recognized Research Institute(s) under Government of India or State Government or any reputed academic institution or through any reputed consultant provided the selection of the consultant has been done through competitive bidding.

## 4.22 **Cost of Outsourcing**

4.22.1 The licensee or generating company shall show the cost of outsourcing on the following activity separately in a Form 1.17(k) in Annexure-I against each activity of electricity business as shown below:

- (i) Generation activity generating station wise.
- (ii) Distribution activity.
- (i) Transmission activity.
- (ii) Electricity trading activity.
- (iii) Others, if any, (to be stated clearly).

4.22.2 Against each activity of electricity business as specified in regulation 4.22.1 the outsourcing expenditure is to be shown on different heads distinctly in form 1.17(k) in Annexure-I which shall also include the following heads.

- (a) Repair & maintenance along with details on heads of spares, consumables, services, manpower.
- (b) Service (such as security, call centre, office transportation, courier service etc.)
- (c) Operational service
- (d) Management service
- (e) Others, if any, (to be stated clearly)

4.22.3 While showing the cost of outsourcing for the first year the licensee or generating company shall specifically mention the head of account under which such expenditure was previously included along with the actual expenditure on such head for the

last three years. On the basis of such information, the Commission shall adjust the requirement of revenue of each element of ARR, irrespective of controllable item or non-controllable item, in APR or tariff order of the year for which outsourcing cost(s) are determined separately.

4.22.4 If any outsourcing is introduced for a new activity, the licensee or generating company, as the case may be, shall mention it clearly. If such activity is in replacement of any existing activity done by its own resource, then it shall also be made clear along with detailing of utilization of such resource in the changed circumstances due to outsourcing. The annual expenditure against such replaced resource for the last three years shall also be made available along with the accounts head under which such expenditure was booked.

4.22.5 Cost of outsourcing shall be considered for ARR determination prospectively subject to prudence check by the Commission.

#### 4.23 **Insurance Premium**

4.23.1 Insurance Premium paid by a generating company or licensee after selection of the insurance company through a transparent process shall be adopted by the Commission subject to prudence check for items covered under such insurance only.

#### 4.24 **Investment and other conditions of Reserves and Funds.**

4.24.1 The sum appropriated to the Reserve for Unforeseen Exigencies, Development Fund and Power Purchaser Fund shall be invested separately against each such head prudently in securities authorised under the Indian Trusts Act, 1882 (2 of 1882), keeping the risk, rate of return and liquidity factors in view within a period of six months of the close of the year of accounts for which such appropriation is allowed. Such

investment will be done in a manner so that about 50% of such investment shall be in long term instruments and balance in short term deposits excluding those specific amounts against which the Commission has issued any specific direction.

- 4.24.2 The interest accrued from such investment shall be reinvested under the same reserve / fund or placed under Development / Power Purchaser Fund as may be decided by the Commission in tariff order or order of APR.
- 4.24.3 The reinvestment from interest shall be maintained separately under separate head and it shall not be treated under any ceiling as specified in regulation 4.11.1 or regulation 4.19.1 of these regulations.
- 4.24.4 To decide the mode of use of accrued interest, prior approval of the Commission may be taken annually through application of tariff or APR preceding the year in which such interest accrues.
- 4.24.5 Accrued interest after disbursement shall be invested within a month of receipt of the same unless invested on a cumulative basis.
- 4.24.6 The aforesaid reserve or fund shall be drawn upon only to meet such charges as the Commission may approve.
- 4.24.7 For facilitating distinct operation of the above funds and reserves the licensee or generating company shall open separate bank accounts under nationalized/scheduled banks (s) for Power Purchaser Fund, Reserve for Unforeseen Exigencies and Development Fund. The licensee or generating company shall deposit the amount on the head of Reserve for Unforeseen Exigencies and Development Fund on monthly basis from the

monthly revenue income in proportion to the amount of such head in the total revenue recoverable through tariff for the year concerned. Any adjustment from these two accounts for a year for over or under deposition shall be done within three months from the date of the issuance of the order of APR of the concerned year. In case of Power Purchaser Fund, the required amount is to be deposited within one month of the concerned order issued or any investment maturity or issue of specific direction from the Commission on any specific amount. All the transactions and investment / reinvestment of the fund or reserve shall be routed through this account only in accordance with these regulations, and specific order of the Commission.

4.24.8 The reserve for unforeseen exigencies or development fund can be utilized for the purpose of providing service directly or indirectly exclusively to the consumers of the State. Similarly, power purchaser fund can be utilized only to control the tariff of the consumers of the State directly or indirectly.

4.24.9 If any generating company create any asset from the development fund or reserve for unforeseen exigencies and subsequently such asset is not used to supply electricity to any licensee of the State due to discontinuance of any PPA then such generating company is required to refund part of such investment to the account of power purchaser fund of the concerned licensee by an amount equal to balance residual amount of depreciated value of such asset under discussion.

#### 4.25 **Treatment of Inoperative asset of Generating Station**

4.25.1 Notwithstanding anything to the contrary contained anywhere else in these regulations where for a generating station fixed cost recovery is done on the basis of availability, then in case

any asset of such generating station of a licensee or a generating company remains inoperative for more than three months due to breakdown or force majeure events resulting in less availability compared to respective normative target of availability for that generating station then shortfall of full capacity charge will be allowed to be recovered partly on the following heads only :-

- i) Employee Cost and interest on capital loan corresponding to such inoperative asset will be allowed while determining the ARR of the generating station or the licensee for recovery to the extent the Commission finds it necessary.
- ii) Depreciation and advance against depreciation corresponding to such inoperative asset will be allowed while determining the ARR of the generating station or the licensee for recovery to the extent the Commission finds it necessary.

4.25.2 Notwithstanding anything to the contrary contained in these regulations in case any asset of a generating station of a licensee or a generating company, the tariff/ ARR of which is not determined on the basis of availability, remains inoperative for more than three months due to breakdown or force majeure events resulting into less actual/ projected generation for generating station compared to respective normative target for that generating station then different element of ARR other than fuel cost corresponding to such inoperative assets will be determined in accordance with the following methodology:-

- i) Employee Cost and interest on capital loan corresponding to such inoperative asset will be allowed

while determining the ARR of the generating station or the licensee.

- ii) The return on equity and depreciation shall be determined in pursuance of regulations 4.6.1 and 4.6.2.
- iii) In order to ensure payment of principal of loan only corresponding to such inoperative asset advance against depreciation shall be applicable as per regulation 4.6.3.
- iv) The elements of ARR for a generating station other than those mentioned in regulation 4.25.2(i), 4.25.2(ii) and 4.25.2(iii) of these regulations will be determined in proportion to the actual/ projected generation for such generating stations with respect to normative generation as applicable for that power station.

4.25.3 In case any asset of a generating station of a licensee or generating company, the tariff of which is not determined on the basis of availability, remains inoperative for less than three months the Commission may deduct certain amount but not higher than the amount as per principle laid down in regulation 4.25.2

#### 4.26 **Allocation of different elements of ARR**

While any element of ARR is required to be allocated among distribution, transmission, generation and trading business of any licensees, then the Commission will follow the allocation in accordance with the following methodology.

4.26.1 The actual amount of expenditure or entitlement on different business as proposed by the licensee or generating company shall be subject to prudence check by the Commission.

- 4.26.2 Where the licensee or generating company applies for allocation procedure with any reasoning on any element of ARR, the Commission may accept it, if it is found reasonable.
- 4.26.3 Where the Commission does not agree to any allocation procedure by generating company or licensee or does not have the allocation from generating company or licensee, the Commission will allocate such element of ARR in accordance with any of the following methodologies.
- (i) Equity and reserve for unforeseen exigencies on the basis of gross fixed asset
  - (ii) Depreciation on the basis of net fixed asset.
  - (iii) Other elements of ARR on the basis of purpose of such element. For loan, loan repayment and interest, the purpose of the loan shall be mentioned clearly in order to allocate properly its impact on generation, distribution system, transmission system and trading activity separately. Where no such allocation is possible on the basis of purpose, then such allocation will take place on the basis of proportion to gross aggregate revenue requirement for each type of business.
  - (iv) Any method, other than (i) to (iii) above, found to be reasonable subject to mentioning of such specific reasons.
- 4.26.4 While adjusting through recovery or refund arising out of APR, such adjustment amount is to be allocated between different businesses of the licensee in accordance with the proportion of the net aggregate revenue determined under APR for each type of business.

- 4.26.5 While adjusting fuel cost of a generating station under FPPCA of a year with ARR of any subsequent year, such fuel cost adjustment shall be treated under such ARR requirement of such generating station only. Similarly the adjustment for power purchase cost determined in FPPCA of a year with ARR of any subsequent year for a licensee shall be done against distribution activity of such licensee.”
58. After regulation 5.4.2 of the principal Regulations, the following regulations shall be inserted:-
- “5.4.3 The availability affected only for the reason of shortage in coal availability from linkage source excluding own captive source shall be separately determined annually in a manner as may be specified in the Balancing and Settlement Code. Such affected quantity of availability shall then be compensated to the maximum extent possible through applying regulation 2.8.6.7. If there is still some quantity of resultant affected availability, derived by reducing the affected quantity of availability through compensation by applying regulation 2.8.6.7, then such resultant affected availability may also be considered to be used further to such extent as the Commission may decide but shall not exceed seventy five percent of the amount of said shortfall in total entitled capacity charge recovery arising out of resultant affected availability. In order to serve such purpose, the coal fired thermal generating stations shall declare capacity for both the situations as mentioned below.
- i) Actual Declared Capacity taking into consideration existing actual shortage in coal supply and this is to be known as declared capacity.

- ii) Notional Declared Capacity considering no shortage notionally in coal supply.

Provided that for the purpose of showing shortage in coal supply during the period of April to July and November to March of a year, the stock in the power plant shall be less than 2 days on the basis of average coal requirement per day and the claim of shortage will be verified by SLDC based on the coal stock related data provided by the generating station on the basis of submitted data as per regulation 5.4.4 of these regulations and daily coal consumptions and receipt to be provided in accordance with State Grid Code.

Provided further that for the purpose of showing shortage in coal supply during the period of August to October of a year, the stock in the power plant shall be less than 4 days on the basis of average coal requirement per day and the claim of shortage will be verified by SLDC based on the coal stock related data provided by the generating station on the basis of submitted data as per regulation 5.4.4 of these regulations and daily coal consumptions and receipt to be provided in accordance with State Grid Code.

Provided further that in case of any dispute, physical check by the beneficiaries in the presence of SLDC representative will be done in order to verify the stock position. In case of dispute SLDC's decision on coal-stock will be final for the purpose of capacity charge recovery.

Provided further that recovery of the Capacity Charge arising out of shortage in coal supply from linkage source will be considered if it is found that the licensee/ generating company has explored all the possibilities of acquiring coal through e-

auction or import to compensate such linkage shortage and for procurement of coal through such mechanism the rise in tariff or ARR does not exceed 5% of such value as approved in the last tariff order.

Provided further that, if due to restriction in transportation of coal due to any reason beyond the control of the licensee or generating company, there is possibility of delayed supply in coal which requires lowering of generation so that minimum power supply requirement is to be maintained in the grid as required by the SLDC, then that affected amount of availability shall be considered in the overall achieved availability only to attain availability upto target availability in the year for capacity charge recovery subject to submission of a report on such incidence to the Commission within 3 working days of the incident and obtaining the approval from the Commission.

Provided further that such part of capacity charge recovery for the portion of resultant affected availability as specified in this regulation shall be done for those coal-fired thermal generating stations, the tariff of which are determined on the basis of availability.

Provided also that if after issuing the initial Actual Declared Capacity and Notional Declared Capacity for a day coal stock is increased beyond the stipulated level within the concerned day, then it is the responsibility of the generating station to revise the schedule of Actual Declared Capacity accordingly, failing which the Commission may take decision that may affect the capacity charge recovery for that generating station.

5.4.4 For the purpose of determination of average coal requirement per day, as required under regulation 5.4.3, the annual coal

requirement in MT as determined under last tariff order and the number of days in that year shall be considered. In this matter carpet coal shall not be considered for determining 'Coal Stock' in the coal yard of the generating station. SLDC shall initially collect the carpet coal stock position and base stock at the starting of the year. For this purpose the generating station shall also provide the quantity of daily coal consumption and receipt to the SLDC

5.4.5 Notwithstanding anything contained contrary to this regulation, the extent of resultant affected availability due to shortage in supply of coal as provided in regulation 5.4.3 and used for part of capacity charge recovery commensurate with the resultant affected availability shall not be entitled to earning any incentive”

59. For regulations 5.5.1 and 5.5.2 of the principal Regulations, the following regulations shall be substituted:-

“5.5.1 Variation of actual injection or actual drawal with scheduled injection or scheduled drawal respectively shall be accounted for through unscheduled interchange (UI) Charges. UI for a generating station or injecting entity shall be equal to its actual injection minus its scheduled injection. UI for a beneficiary or drawal entity shall be equal to its total actual drawal minus its total scheduled drawal. The quantum of unscheduled interchange shall be inclusive of applicable transmission loss and shall be borne by the entities, who will be liable for paying UI charges at that instant. UI shall be worked out for each 15-minute time block. Charges for all UI transactions shall be based on average frequency of the time block and the rates applicable are as per rate specified by Central Electricity Regulatory Commission. Accounting of UI in case of pumped

storage hydroelectric generating stations both in generating and pumping mode shall be on net basis.

- 5.5.2
- (i) Any injection upto 105% of the declared capacity by any generating station including captive generating station in any 15 minutes time block and averaging upto 101% of the average declared injection schedule respectively over a day and also averaging upto 101% of the average declared injection schedule during peak period of a day shall not be construed as gaming and such generating station shall be entitled to UI charges for such excess generation above schedule generation.”
  - (ii) For any generation beyond the stipulated limits, the SLDC shall investigate so as to ensure that there is no gaming, and if gaming is found by the SLDC, the corresponding UI charges due to the generating station on account of such extra generation shall be reduced to zero and the amount shall be adjusted in UI account of beneficiaries in the ratio of their capacity share in the generating station. For this purpose extra generation stands for actual generation minus schedule generation.
  - (iii) If any distribution licensee or any person exempted under section 13 or exempted under 8<sup>th</sup> proviso of section 14 draws less power than the scheduled drawal inspite of availability of power as per schedule and at the same time having load shedding in his area of supply, then the action will be construed as gaming and no UI charge will be receivable by him. UI charge shall be adjusted in the UI account of beneficiaries. However, if such incidence occurs for any direction by SLDC, then UI charge may be receivable to him, if applicable. In case of any dispute

the matter shall be referred to the Commission for decision. For this purpose of regulation the load shedding includes load restriction imposed on consumer by the licensee on the ground of shortage in power availability.

Provided in case of non-availability of power as per requisition and to meet the commitment of long term and short term sale of power the shortage can be distributed in some agreed principles between sale of power to consumer by load shedding and sale of power to entities in the State Grid by reduction in supply. However, in the larger interest, any instruction of SLDC shall be binding upon all.

- (iv) Any injection in State Grid above the declared injection by any licensee in any 15 minutes time block as a consequence of generation by the embedded generating stations of the licensee upto 105% of the declared injection schedule and averaging upto 101% of the declared injection schedule of the generating station respectively over a day shall not be construed as gaming and such licensee shall be subjected to UI charge for such excess injection above the scheduled injection.
- (v) Any under drawal at frequency below 50 HZ by any licensee upto 95% of the drawal schedule in any 15 minutes time block and averaging upto 99% of the drawal schedule over a day shall not be construed as gaming. For any drawal by the distribution licensee below the said stipulated level, SLDC may investigate so as to ensure that there is no gaming. If such under drawal below the stipulated level does not cause backing down of any

generating station of any generating company or licensee under the purview of the Commission then such under drawal shall not be treated as gaming. If gaming is found by SLDC, the corresponding UI charges due to the licensee on account of less drawal under UI charges shall be reduced to zero where the under drawal stands for actual drawal minus scheduled drawal and the amount shall be distributed in proportion to UI charges recoverable by other entities within the State in these 15 minutes time block. If, such under drawal below the stipulated level is found to co-exist with load-shedding in the area of supply of the distribution licensee from which such electricity is drawn then the SLDC may, if necessary, revise the concerned schedule and intimate the concerned person(s) immediately and such schedule will be binding on all.

- (vi) Any over drawal at frequency above 50HZ by any licensee upto 105% of the drawal schedule in any 15 minutes time block and averaging upto 101% of the drawal schedule over a day shall not be construed as gaming. For any drawal by the licensee above the said stipulated level, SLDC may investigate so as to ensure that there is no gaming, and if gaming is found by the SLDC, the corresponding UI charges due to the licensee on account of excess drawal shall be reduced to zero and the amount shall be distributed in proportion to UI charges recoverable by other entities within the State in those 15 minutes time block.

Provided that in case of DPL or DPSC, when applicable, the overdrawal due to outage of the

generating station or its units or its load bearing equipments, shall not be construed as gaming for the next three blocks from the block when such outages occur but limited to the extent by which generation is reduced due to the outage.

- (vii) Notwithstanding anything to the contrary contained anywhere in these regulations, in case of less injection by a generating station or a licensee in any 15 minutes time block than its scheduled injection to another licensee the second licensee can generate from its embedded generating stations to any extent over its declared capacity (i.e, declared availability) subject to the restrictions of injection by the second licensee in the State Grid as specified in clause (iv) of regulation 5.5.2 and regulation 5.5.13 of these regulations. In such case the excess energy injected by the licensee will be entitled for UI charge only.
- (viii) In case of certain unforeseen demand fall of a consumer of DPL or DPSCL, when applicable, if there is injection above 105% of the scheduled injection by DPL or DPSCL, then that shall not be construed as gaming if DPL or DPSCL could provide supporting documents. However, such over injection shall be allowed upto next two blocks only from the block when such over injection above 105% has started and by that time schedule has to be revised by the DPL or DPSCL as the case may be.
- (ix) Notwithstanding anything contained contrary to any regulation of these regulations for a generating station of installed capacity below 100 MW or a licensee having injection / drawal schedule of less than 100 MW, then

deviation upto  $\pm 5$  MW shall not be construed as gaming. However, in case of deviation beyond  $\pm 5$  MW of the scheduled injection / drawal subject to specific dispensation as provided in proviso of clause (vi), if SLDC finds any gaming then such extra injection shall be reduced to zero where such extra injection stands for actual injection minus scheduled injection.

- (x) Whenever any amount of UI charge is not allowed to a licensee or generating company on the ground of gaming then such amount will be distributed in accordance with the following priority.
  - (a) If UI charge is not distributed as per clause (ii) of this regulation, such amount shall be distributed among the affected entities who are affected by losses of revenue due to such gaming.
  - (b) Otherwise such amount shall be distributed among the beneficiaries of UI account in proportion to their UI charge recoverable by the other entities excluding the person who has been found to be involved in gaming.”

60. For the clause(i) of regulation 5.5.4 of these regulations, the following clause shall be substituted:-

“(i) The price of electricity from captive generating plant having capacity more than 5MW and connected to State Grid shall be either at UI rates at the time of injection or at a mutually agreed rate as stipulated in power purchase agreement between the captive generating plant and the licensee purchasing such electricity provided that flow of such infirm power does not exceed a period of three months between synchronization and date of Commercial Operation. However, price for firm supply of electricity from

such captive generating plant to any licensee in the State Grid shall be as per power purchase agreement. In such case of supply from captive generation deviation from scheduled injection, if any, shall be settled through UI mechanism, or, as per terms and conditions on this account in the agreement between the licensee and the captive generator.”

61. After regulation 5.5.14 of the principal Regulations, the following regulations shall be inserted:-

“5.5.15 If SLDC comes to a conclusion after observing two consecutive 15 minutes time block or same time blocks of a number of days in a certain pattern at a regular interval or number of days at a stretch, that any licensee or generating company or generating station is involved in gaming then SLDC can suo-moto revise the concerned schedule in a manner which will be beneficial to the State and in the process the loss of income from UI by the licensee or generating company due to such revision of schedule shall not be construed as loss of benefit to the licensee or generating company as because UI is a commercial principle for maintaining grid discipline only.”

1. For regulation 5.7 of the principal Regulations, the following regulation shall be substituted:-

“5.7 Demonstration of Declared Capacity:

5.7.1 The generating station under ABT may be required to demonstrate the declared capability of its generation as and when asked by the SLDC. For coal fired thermal generating station such demonstration shall be applicable for both actual declared capacity (normally called as declared capacity) and Notional Declared Capacity as explained in regulation 5.4.3 of these regulations. On a day when there is difference between Actual Declared Capacity and Notional Declared Capacity,

SLDC, on the basis of request from any beneficiary or suo-moto shall mandatorily ask for at least one demonstration at a stretch against Notional Declared Capacity within a duration of one 15 minutes time block which excludes the ramp-up and ramp down time. In the event the generating station fails to demonstrate any of such declared capacity, the capacity charges due to the generating station shall be reduced as a measure of penalty.

- 5.7.2 If the captive generating plant / generating station sells a portion of its power to the licensee, then Notional Declared Capacity against total installed capacity is required and the respective proportion for Notional Declared Capacity under sale to licensee will be determined as per ratio of allocation in PPA to the licensee. For such captive generating plant the demonstration is to be given for Notional Declared Capacity against total installed capacity and for that period if there is any surplus generation the licensee will consume such surplus generation. Moreover, for such declaration in such demonstration penalty will be imposed and other measures will be taken proportionately to the extent of its installed capacity which is agreed for allocation for sale to the licensee under PPA.
- 5.7.3 No separate cost of demonstration, will be allowed for either type of the declared capacity for a unit which is kept idle for want of demand or shortage in coal-supply. This means that, for such demonstration, corresponding capacity charge and fuel cost as determined under normative parameter as provided in tariff order will be applicable.
- 5.7.4 While giving notice for demonstration of Declared Capacity, to a coal fired thermal generating station SLDC shall clearly mention whether such demonstration is to demonstrate the Actual Declared Capacity or Notional Declared Capacity. In case of

demonstration of Notional Declared Capacity, same demonstration will also be treated as the demonstration for Actual Declared Capacity. For generating stations other than coal fired thermal generating stations, demonstration of declared capacity means Actual Declared Capacity only.

5.7.5 During demonstration of Actual Declared Capacity or Notional Declared Capacity the actual injection will be treated as the revised schedule of injection for those 15 minutes time block under which such demonstration takes place in accordance with prior intimation to all entities by SLDC about undertaking of such demonstration. The impact of such additional injection due to such demonstration will be distributed as additional drawal schedule among the purchaser of electricity of that generating station in proportion to their original drawal schedule or as per direction of SLDC where such additional generation can be scheduled for any licensee who has shortage of power or to the licensee (s) who has asked for such demonstration.

5.7.6 The quantum of penalty for the first mis-declaration for any duration/block in a day shall be the charges corresponding to two days capacity charges. For the second miss-declaration the penalty shall be equivalent to capacity charges for four days and for subsequent miss-declarations, the penalty shall be multiplied in the geometrical progression till the recoverable monthly capacity charge becomes zero in that month. In the mis-declaration where demonstrated capacity against Notional Declared Capacity is less than the corresponding Actual Declared Capacity, then the penalty will be applicable against failure for any one type of declared capacity only. The penalty arising out of mis-declaration shall be recorded by SLDC as specified in the Balancing and Settlement Code and its

cumulative amount shall be adjusted with the recoverable revenue through tariff after adjusting the ARR with the amount determined in APR.

5.7.7 Incase of no mis-declaration against Actual Declared Capacity/ Declared Capacity in a day, the Actual Declared Capacity/ Declared Capacity for each 15 minutes time block of the day shall be treated as resultant/ achieved actual availability. Similarly in case of no mis-declaration against Notional Declared Capacity in a day, the Notional Declared Capacity for each 15 minutes time block of the day shall be treated as achieved/ resultant notional declared availability. In case of mis-declaration(s), the availability to be determined against Actual Declared Capacity/ Declared Capacity and Notional Declared Capacity of the generating station for the whole day shall be as specified in the Balancing and Settlement Code. In case of mis-declaration against Notional Declared Capacity, following methodology is to be adopted for determination of Actual and Notional availability.

- i) If demonstrated capacity/ availability lies between Actual Declared Capacity and Notional Declared Capacity, then during the 15 minutes time block when such demonstration takes place the notional availability will be the demonstrated capacity. Based on such value the notional availability for the whole day will be calculated as per the Balancing and Settlement Code.
- ii) If demonstrated capacity/ availability lies below the Actual Declared Capacity then during the 15 minutes time block when such demonstration takes place the notional availability as well as actual availability will be the demonstrated capacity. Based on such value the notional

availability and actual availability for the whole day will be calculated as per the Balancing and Settlement Code.

Moreover, even though there is no demonstration but at frequency below 50Hz there is failure to inject by the generating station at least to the level of 95% of the schedule of injection for any 15 minutes time block, the actual availability will be reduced to the actual injection for the concerned 15 minutes time block in order to determine the amount for recovery as capacity charge and that failure shall not be treated as a mis-declaration.

5.7.8 In case of dispute, the same shall be referred to the Commission. The operating logbooks of the generating station shall be available for review by the Commission. These books shall keep record of machine operation and maintenance. For hydro-generating stations, the logbook shall also have records of reservoir level and spill way gate operation.”

63. After regulation 5.10.1 of the principal Regulations, the following regulation shall be inserted:-

“5.10.2 Notwithstanding anything contained contrary to any regulation of the Commission, STU / SLDC shall not permit any synchronization of any new unit of any generating station unless ABT compliant meters are installed and commissioned for recording the generation and ex-bus generation amount of such generating station along with proper on-line real time display of such information at SLDC except for the first test synchronization of such unit with explicit prior permission of SLDC.

Provided that for units which are already covered under Schedule 9A of these regulations, the Commission may give certain relaxation for a certain period.”

64. After regulation 5.11.6 of the principal Regulations, the following regulations shall be inserted:-

“5.11.7 In case of any hydro pumped storage generating plant the plant availability could not be used for generation, then such availability shall be used for determination of capacity index of the plant if such non-utilization of availability of the plant is for following reasons.

- (a) Non-availability of pumping power.
- (b) Generation is not required due to sufficient power availability to meet the demand of the consumer and other licensee with whom there is PPA for supply of power under the purview of the Commission.
- (c) The pumping energy saved is found to be beneficial to the consumer.
- (d) To maximize availability of power to the consumer.

5.11.8 In case of any hydro-generating station where the plant availability could not be used due to non-availability of water from the supplier of water or due to annual dependability less than design consideration, then such amount of non-utilised availability shall be considered for capacity index determination.

Provided that for such cases the availability shall be limited to the ex-bus energy design value for the concerned months.”

65. After regulation 5.14.7 of the principal Regulations, the following regulations shall be inserted:-

“5.14.8 If at the end of a financial year, there is any amount in UI account then 90% of such amount will be used for the following purposes:-

- (a) The annual amount required to operate SLDC shall be transferred as per the budget to be approved by the SLDC from the Commission.
- (b) The balance amount shall be distributed among the licensee in proportion to the amount of energy required by the licensee for selling the power to its consumer and licensee of the Commission. Such distributed amount shall be kept in the power purchaser fund of the concerned licensee.

**5.15 Condition of new generating unit prior to C O D and consequential impact dealing.**

5.15.1 The test synchronization can continue upto 24 hours at a stretch subject to following conditions:-

(lxxxviii) Prior to any test synchronization notice is to be provided to the SLDC along with mentioning the maximum possible injection and the duration of such trial operation.

(lxxxix) Prior to first test synchronization PPA between the generating station and purchaser of such electricity is to be submitted to the Commission mandatorily, where prior approval has not been taken yet, for clearance at least six months before such test synchronization except where the generating station and the purchaser are same person.

- (xc) Only after receiving of clearance of SLDC on the basis of notice issued under clause (i) above, clearance under clause (ii) above and satisfaction of conditions as specified in regulation 5.10.2, test synchronization can be undertaken.
- (xci) The fuel cost of electricity generated under test run shall be considered as a part of project cost and thus not chargeable at all.
- (xcii) The electricity generated under test synchronization shall be deemed to be scheduled among the beneficiaries in proportion to the allocation under PPA or as will be instructed by the generator through written communication in case the beneficiary does not agree to draw such power.
- (xciii) Between two test synchronization there shall be a gap of at least 24 hours.

5.15.2 The synchronization of an unit of a generating station where tariff is to be determined shall be subject to following conditions.

- (i) At least 15 days before synchronization the owner of the generating station shall submit to the Commission status of all load bearing equipments, system and facilities along with certification of availability for full operation of these equipments / facilities / system from the manufacturers and / or erection contractor along with validation by the in-charge of the generating station.
- (ii) On the basis of documents as above the Commission will provide approval for 'go-ahead' for synchronization.

- (iii) Only on the basis of such approval for 'go-ahead' SLDC will allow the generating station to synchronize after getting prior notice from the generating station in accordance with the provisions to the State Grid Code.
- (iv) Such unit will be under ABT operation from the Date of Commercial Operation (COD) as specified in these regulations with reference to such date of synchronization against the above synchronization.
- (v) For the purpose of tariff determination and ABT operation ninety days from the date of synchronization or the date as declared by the owner of the generating station as COD, whichever is earlier shall be treated as COD.
- (vi) The generation between date of synchronization and COD shall be treated as infirm power and chargeable on fuel cost basis.
- (vii) The owner of the generating station has filed the tariff application and is being admitted by the Commission as per regulation.
- (viii) The condition of regulation 5.10.2 is satisfied.

5.15.3 In case of shortage of power the Commission may allow synchronization with partial availability of all load bearing equipments / facilities / systems subject to following conditions.

- (i) Licensee or generating company who owns the generating station cannot ask for any special dispensation in tariff due to partial availability in installed capacity.

- (ii) For the purpose of tariff determination and ABT operation ninety days from the date of synchronization with such partial installed capacity or the date as declared by the owner of the generating station as COD, whichever is earlier shall be treated as COD.
- (iii) From the date of commercial operation such generating station shall be under ABT operation and no special dispensation will be provided on the ground of lower availability of installed capacity.
- (iv) The available installed capacity is at least 60% of the MCR of the generating unit under consideration.
- (v) The conditions of regulation 5.10.2 of these regulations are satisfied.”

66. For paragraph 2.3 of Schedule-1 of the principal Regulations, the following paragraph shall be substituted:-

“2.3(a) The Annual Capacity Charges and Annual Revenue Recoverable through tariff of a thermal generating station or of a hydro generating station (including pumped storage hydro generating station), as the case may be, shall be computed in the following manner:-

Annual Revenue Recoverable through tariff for a year =  
Aggregate Revenue Required of the concerned ensuing year +  
Adjustment due to APR of any year(s) + Adjustment due to  
FPPCA of any year(s), if any.

Annual Capacity Charges = Annual Revenue Recoverable  
through tariff of a year — Fuel Cost of the year.

2.3(b) For hydro generating station FPPCA and Fuel Cost will not exist.”

67. For the first proviso of the paragraph 4.1 of Schedule – 2 of the principal Regulations, the following proviso shall be substituted.

“Provided that prior approval of the Commission shall be required in accordance with these regulations in respect of any agreement or arrangement for procurement of electricity by the licensee from any source of supply except for short-term procurement contracts of duration not more than 120 days”

68. For the paragraph 4.5 of Schedule-2 of the principal Regulations, the following paragraph shall be substituted.

“4.5 Notwithstanding anything to the contrary contained anywhere else in these regulations, where the licensee has identified a source from which power can be procured at a tariff that reduces the ultimate average cost of supply to the consumer, the licensee may enter into procurement agreement or arrangement with such supplier without the approval of the PPA from the Commission in accordance with regulation 2.12.2 of these regulations.”

69. For the paragraph 4.7 of Schedule – 2 of the principal Regulations, the following paragraphs shall be substituted:-

“ 4.7 Within two months from the date of entering into an agreement or arrangement for short-term power procurement for which prior approval is not required, the distribution licensee shall provide the Commission, full details of such agreement or arrangement, including quantum, tariff calculations, duration, supplier details, method for supplier selection and such other details as the Commission may require with regard to such agreement / arrangement to assess that the conditions specified in these regulations have been complied with

4.8 Where the Commission has reasonable grounds to believe that the arrangement or agreement entered into by the licensee under short term power procurement or under regulation 2.12.2 of these regulations results in increase in average cost of supply to the

consumer, the Commission may disallow any increase in the total cost of power procurement (net of additional revenue) over the approved level arising therefrom or any loss incurred by the distribution licensee as a result, from being passed through to consumers as an adjustment in tariffs in the formula for Fuel and Power Purchase Cost Adjustment (FPPCA) as specified in Schedule – 7.

- 4.9 All the PPAs already approved by the Commission shall be deemed to have been approved under these regulations. The PPA which are yet to be approved by the Commission will be considered for approval under these regulations only.”
70. For paragraph 7.1 of Schedule- 3 of the principal Regulations, the following paragraph shall be substituted:-
- “7.1 The allocated transmission losses for the transmission and associated systems will be in accordance with the norms set in Schedule – 9A of these regulations”
71. The paragraph 7 under schedule 5 of the principal Regulations shall be deleted.
72. For paragraph 9.0 of Schedule – 5 of the principal Regulations, the following paragraph shall be substituted:-
- “9. **Distribution losses**
- 9.1 The distribution licensee shall be allowed to retain permissible gain in accordance with Schedule – 9B of these regulations due to reducing distribution loss below the target norms set in Schedule – 9A of these regulations”
- 9.2 Distribution licensee shall furnish the distribution loss during the previous year and the proposed target for the current and ensuing years as well as for the next 5 (five) years with details of measure proposed to achieve target in each year.

- 9.3 The distribution licensee shall have proper metering arrangements for accurate measurement of transmission loss.
- 9.4 Appropriate sample study with the approval of the Commission shall be conducted to estimate the consumption in unmetered services so that distribution losses are estimated fairly accurate.”
73. For paragraph A of Schedule – 7 of the principal Regulations the following paragraph shall be substituted:-
- “A. Fuel And Power Purchase Cost Adjustment (FPPCA) for Licensees.
- 1) Actual fuel and power purchase cost admitted against energy sold to own consumers and other licensee during adjustment period shall be in terms of the following formula.

$$\text{FPPC (In Rs.)} = \{FC + (PPC - C_D) - (\pm A)\}$$

Where –

- i) The adjustment period for fuel and power purchase cost will normally be on annual basis, if not otherwise decided by the Commission.
  - ii) FPPC : Re-determined Fuel and Power Purchase Cost against application of FPPCA
  - iii) FC: Fuel cost of own generation as per normative parameters fixed by the Commission or on actual basis in absence of any norm and UHV range as may be allowed under regulation 4.8, commensurate with actual level of energy sales to own consumers and / or licensee during the adjustment period in accordance with the following methodology.
- t = Norms of Transmission and Distribution loss in % considered for sale of power from licensee to licensee
- d = Norms of distribution loss in %

$E_o$  = Admitted Energy for own consumption by licensee

$E_{SL}$  = Energy sale to other licensee in MU

$E_{SC}$  = Energy sale to consumer in MU

Fuel-Cost = Fuel cost at generation bus of own generating stations =  
Cost determined on the basis of normative parameters of  
SHR and oil consumption rate against actual level of  
energy sent out plus normative auxiliary energy  
consumption

$FC_{IUC}$  = Per unit of Fuel Cost at distribution input

= Fuel-Cost  $\div$  Actual overall energy available at input of the  
distribution system which includes power purchase from  
different services.

$FC_{Adm\_d}$  = Admitted Fuel Cost for sale to licensee

$$= \frac{E_{SL}}{(1 - t \times 0.01)} \times F_{IUC}$$

$FC_{Adm\_C}$  = Admitted Fuel Cost for sale to consumer

$$= \frac{E_{SC} + E_o}{(1 - d \times 0.01)} \times F_{IUC}$$

$FC$  =  $FC_{Adm\_d} + FC_{Adm\_C}$

iv) PPC (Rs.) : Total cost incurred including the cost for fuel for power purchase from different sources commensurate with actual level of energy sales during the adjustment period.

v)  $C_D$  (Rs.) : Cost disallowable by the Commission as per following methods:

Let  $d$  = Norms of distribution loss in %

$t$  = Norms of Transmission and Distribution loss in % considered for  
sale of power from licensee to licensee

$E_g$  = Actual energy sent out in MU from own generating station

$E$  = excess amount of auxiliary energy consumption in MU

$E_P$  = Total energy purchased in MU

$E_O$  = Admitted Energy for own consumption by licensee

$E_{SC}$  = Energy sale to consumer in MU

$E_{SL}$  = Energy sale to other licensee in MU

$E_{Adm}$  = Admitted Amount of Energy entitled for purchase

$$E_{Adm} = \frac{E_{SC} + E_O}{(1 - d \times 0.01)} + \frac{E_{SL}}{(1 - t \times 0.01)} - E - E_g$$

$E_E$  = Excess energy purchased =  $E_P - E_{Adm}$

$C_D = E_E \times EP_{Avg}$

When  $EP_{Avg}$  = Average cost of power purchase

- vi) A: Adjustment, if any, to be made in the current period to account for any excess / shortfall in recovery of fuel and power purchase cost in the past adjustment period based on directions / orders of the Commission.
- vii) Such re-determined fuel and power purchase cost (FPPC) of the licensee will be further adjusted for gain sharing as per Schedule – 9B for the parameters related to fuel cost to the extent it has impact in the fuel cost.

Note: Such re-determined fuel and power purchase cost (FPPC) including of gain sharing under (vii) shall then further be considered in the order of APR along with re-determined fixed cost in APR and incentive and for other parameters, to find out the total revenue entitled to be recovered/refunded under APR after taking into consideration of the revenue already realized during the period concerned.”

- 74. After paragraph (vii) of part B under Schedule – 7, the following paragraph shall be inserted:-

“viii) FPPCA thus determined on normative basis will further be adjusted for gain sharing as per Schedule – 9B for the parameter related to fuel cost only.”

75. After the second sentence in the sub-paragraph (vi) under the Note of Paragraph B in Schedule 9A of the principal Regulations, the following sentence shall be inserted:-

“Any loss of generation due to lower priority of running unit 1 & unit 2 as mentioned above will be duly taken care of by reducing the target generation, target availability along with necessary adjustment in target oil consumption, station heat rate, auxiliary energy consumption and / or O & M expenses during Annual Performance Review based on the actual generation of unit 1 & 2.”

76. For the paragraph D in Schedule 9B of the principal Regulations, the following paragraph shall be substituted.

“D. GAIN SHARING FOR DISTRIBUTION LICENSEE

The gains accruing to a distribution licensee due to its performance in distribution loss being better than the norms of distribution loss in any year, may be retained by that distribution licensee subject to gain sharing applicable separately for fuel cost of own generation as specified in paragraph A of Schedule – 7 during FPPC determination.”

77. After the sub-paragraph (iii) of the Note under the paragraph 1 of Schedule-10 of the principal Regulations, the following sub-paragraph shall be inserted:-

“iv) Notwithstanding anything to the contrary contained anywhere else in any other provisions under these regulations, any generating company can enter into any agreement with the purchaser of electricity for separate type of incentive due to annual generation over the normative PLF subject to following conditions:

- a) Such incentive will not be an element that can be passed through tariff
  - b) In such event the above incentive under paragraph 1 of Schedule 10 of these Regulations will not be applicable.”
- 78. For the formula in paragraph 2 of the Schedule 10 of the principal Regulations, the following formula shall be substituted:-
 

“RI – GENSCHD =  $\frac{\text{No. of blocks where actual injection achieved with respect to initial injection schedule}}{\text{No. of block in the year}} \times 100$ ”
- 79. For the paragraph II of the Annexure – B of the principal Regulations, the following paragraph shall be substituted:-
 

“II All other forthcoming generating stations(s) above 30MW of any generating company synchronized with the State Grid subsequently.”
- 80. For the paragraph (x) of the Note to the Annexure-C 1 of the principal Regulations, the following paragraph shall be substituted:-
 

“(x) Domestic consumer having monthly consumption of 25 units in case of monthly billing or having quarterly consumption of 75 units in case of the quarterly billing and contract demand not more than 0.3 KW shall be treated as Life Line Domestic Consumer.”
- 81. For the last sentence after the clause (xiv) of the Note to Annexure - C2 of the principal Regulations, the following sentence shall be substituted:-
 

“Considering the actual system peculiarities of any specific licensee, the Commission may decide to determine separate time strata for any class of consumers.”
- 82. After clause (xiv) of the Note to Annexure – C2 of the principal Regulations, the following clauses shall be inserted:-
 

“(xv) An applicant for short term supplies through pre-paid meter shall have to comply with all necessary formalities for obtaining supply including payment in accordance with the Regulations made by the

Commissions subject to the conditions that he shall provide space for installing weather-proof, safe and secure terminal services apparatus to protect sophisticated meter; and

- (xvi) If the word rural or urban within the bracket of any particular class of consumers is not mentioned in the tariff order by the Commission under these regulations, then it will be presumed that same tariff is applicable for both the classes of consumers or the particular class of consumers, for whom that tariff is applicable as per Annexure C1.”

83. In the list of forms contained in Annex 1, the following lines shall be inserted after the line relating to Form 1.17(g):

“

1.17(h)	Break-up of Employee Cost
1.17(i)	Details of Arrear against wage revision
1.17(j)	Statement of penalty / fine / cess etc.
1.17(k)	Cost of outsourcing

“

84. After Form 1.17(g) in Annex 1 of the principal Regulations, the following Forms shall be inserted:-

“Annex 1

**Form 1.17(h)**  
**Break-up of Employee Cost**

Category	Sl. No.	Particulars	Own Employees	Employees on Contract in Regular Establishment
A	<b>Expenditure in Rupees in Lakh</b>			
	1	Salary and Wages		
	a	Basic Pay		
	b	Dearness Allowances		
	c	Other Allowances		
	2	Statutory Retirement Benefit		
	a	Gratuity		
	b	Company's contribution to PF		
	c	Company's contribution to Pension Scheme		
	3	Statutory Bonus and Ex-Gratia		
	4	LTC		
	5	Leave Encashment		
	6	Workmen and staff welfare expenditure		
	7	Others, if any		
B	<b>Contribution for shortfall in interest of PF fund, if any</b>			
C	<b>Production / Performance incentive to employees</b>			

D	Number of Personnel		
<p>Note: (i) In serial no. 7 of Category A under the head “Others”, specific head to be mentioned. Incentive to employees related to performance/ production shall not be included under any head, except C.</p> <p>(ii) This form is to be filled for each ensuing year separately</p> <p>(iii) This form shall be filled up separately for each area of electricity business as specified in regulation 4.22.1 of these regulations.</p>			

## Annex 1

**Form 1.17(i)****Details of Arrear against wage revision**

Category	Sl. No.	Particulars	Arrear Annual expenditure for the year concerned
A	<b>Expenditure in Rupees in Lakh</b>		
	1	Salary and Wages	
	a	Basic Pay	
	b	Dearness Allowances	
	c	Other Allowances	
	2	Statutory Retirement Benefit	
	a	Gratuity	
	b	Company's contribution to PF	
	c	Company's contribution to Pension Scheme	
	3	Statutory Bonus and Ex-Gratia	
	4	LTC	
	5	Leave Encashment	
	6	Workmen and staff welfare expenditure	
	7	Others, if any	
B	<b>Contribution for shortfall in interest of PF fund, if any</b>		
C	<b>Production / Performance incentive to employees</b>		
D	<b>Number of Personnel</b>		
<p>Note : (i) In the above submitted format production incentive shall not be included under any head as mentioned above. Specific head to be mentioned. Incentive to employees related to performance/ production shall not be included under any head, except C.</p> <p>(ii) This form is to be filled for each ensuing year separately</p> <p>(iii) This form shall be filled up separately for each area of electricity business as specified in regulation 4.22.1 of these regulations</p>			

## Annex 1

**Form 1.17(j)****Statement of penalty / fine / cess etc.**

Name of Statute	Type of Payment	Amount	Reasons	Remedial measures
Environmental (Prevention) Act, 1986				
Income Tax Act, 1961				
Electricity Act, 2003				
Others				
<p>Note : (i) This form is to be filled for each ensuing year separately</p> <p>(ii) This form shall be filled up separately for each area of electricity business as specified in regulation 4.22.1 of these</p>				

**Form 1.17(k)**  
**Cost of outsourcing**

Heads	Cost	Scope of work and service to be provided *		
a) Administration & General Expenses				
- Call Centre				
- Security Services				
- Office Transportation				
- Courier Services				
- Retail Outlet Services				
- Pre-paid Vending Machine Services				
- Revenue Collection / Billing Services				
b) Repair & Maintenance Expenses				
- Services*				
- Spares				
- Consumables				
- Manpower				
c) Operational Services				
d) Management Services				
e) Others				

\* In case of service it is to be mentioned that whether spares and consumables are to be provided, what service to be provided and how much manpower to be provided.

Note: This form shall be filled up separately for each area of electricity business as specified in regulation 4.22.1.”

85. For the figure '1.19' in Form 1.20(a) and Form 1.20(b) under Annex - 1 of the principal Regulations in the column under heading 'Basis' the figure '1.18' shall be substituted.
86. For the word 'Anciliary' in Form 1.26 in the column with heading 'particulars' under Ref. (xii), the word 'Auxiliary' shall be substituted.
87. For the Notes of the Form 1.26 under Annex - 1 of the principal Regulations, the following Note shall be substituted:-
 

“Note : Licensees to exclude charges from own consumers under Transmission/ Wheeling charges’

Income from investments and bank balance shall not include the interest accrued from reserves and funds covered under regulation 4.25 of these regulations.

Income from any investment made out of any portion of equity not covered under regulation 4.6.1.7 and also not covered as normative loan capital as per regulation 4.4.2 shall be excluded provided such amount are separately and specifically reflected in certificates or valid documents from the same auditor who has audited the annual account.”
88. In Form E(B) in Annex - 1 under Ref. 25 a) for the phrase 'energy sales' the phrase 'sale of energy' shall be substituted.
89. In Form E(T) in Annex – 1 under Ref. 19 a) for the phrase ' sale of energy' the phrase 'revenue from transmission of energy' shall be substituted.
90. After Annex-7 of the principal Regulations, the following Annex-8 shall be inserted.

**“Annexure – 8**  
(See regulation 2.8.5.1)

- 1) Name of the Project :
- 2) Name of the Package :
- 3) Reference No. & Date of  
Letter of Award / Letter of Interest / Order

		Rupees in Lakh
<b>Item No.</b>	<b>Particulars</b>	<b>Amount</b>
a	Equipment Supply Cost	
b	Civil Cost	
c	Erection Testing & Commissioning Cost	
d	Consultancy Charges – Against the Package	
e	Management Services (Outsourced if any)	
f	Taxes and duties separately for item no.	a
		b
		c
		d
		e
g	Transportation Charges for item no.	a
		b
h	Insurance Charges separately against item no. where applicable	a
		b
		c
		d
		e
i	Other cost	

- Note :
1. Against item no. (a) bill of material and their cost against each material/ equipment in Indian Rupees is to be provided as separate enclosure.
  2. Against item no. (b) quantity of major construction material item wise along with their quantum and prices in Indian Rupees is to be provided in separate enclosure.
  3. If necessary, the Commission may ask for detail breakup on any head, as and when required.”
  4. ‘Other Cost’ shall be mentioned specifically.”

**By Order of the Commission**

**Place: Kolkata**  
**Date: 22.05.2009**

**K.L.BISWAS,**  
**Secretary of the Commission**

