

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

(Draft West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Third Amendment) Regulations, 2017

NOTIFICATION

No. xx/WBERC

Dated, the xx.xx.2017

In exercise of the powers conferred by sub-section (1) and (2) of section 181 read with section 61 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it on that behalf, the West Bengal Electricity Regulatory Commission (WBERC) hereby makes the following regulations to amend the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended from time to time (hereinafter referred to as “the Principal Regulations”).

1. Short Title and Commencement:

- (i) These Regulations may be called the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Third Amendment) Regulations, 2017.
- (ii) They shall come into force on the date of their publication in the Official Gazette and apply for tariff determination, APR, FCA, FPPCA, MVCA and MFCA for the year 2017-18 and onwards unless otherwise specified herein in these Regulations

2. Amendment in Regulation 1.2.1 of the Principal Regulations:

2.1. After clause (lxviii) of Regulation 1.2.1 of the Principal Regulations, the following clauses shall be inserted:

“(lxviiiA) **“MDO” or “Mine Developer and Operator”** means the person who has been appointed by the Mine owner for production of coal;

(lxviiiB) **“Mine owner”** means owner of coal mine;”

2.2. After clause (lxxi) of Regulation 1.2.1 of the Principal Regulations, the following clauses shall be inserted:

“(lxxiA) **“OB” or “Over Burden”** means over burden including top soil lying above the coal being mined;

(lxxiB) **“OBR”** means Over Burden Removal;”

- 2.3. After clause (ciii) of Regulation 1.2.1 of the Principal Regulations, the following clause shall be inserted:

“(ciiiA) **“Stripping Ratio”** in coal mining means cubic meter of overburden to be removed to extract one metric ton of coal;”

3. For regulation 3.13 of the Principal regulations, the following regulation shall be substituted:

“ 3.13 Time Strata for determination of tariff:

The following time strata are to be considered as normal, peak and off-peak periods for different class of consumers covered under different TOD scheme, as specified in Annexure-C2:

TOD Scheme	Normal Period	Peak Period	Off-peak Period
A	06:00 hrs to 17:00 hrs	17:00 hrs to 23:00 hrs	23:00 hrs to 06:00 hrs
B	06:00 hrs to 17:00 hrs and 20:00 to 23:00 hrs	17:00 hrs to 20:00 hrs	23:00 hrs to 06:00 hrs
C	09:00 hrs to 17:00 hrs	17:00 hrs to 23:00 hrs	23:00 hrs to 09:00 hrs

Provided that the Commission may, on consideration of the system peculiarities of any specific licensee or any other relevant factor, determine a different set of time strata for any specific licensee or any specific generating station for the purpose of effecting generation or supply to any particular class of consumers or to all consumers or licensees or any other persons.”

4. For regulation 4.14 of the Principal regulations, the following regulation shall be substituted:

“4.14 The rates of the applicable delayed payment surcharge arising from non-payment of electricity charges as also other charges by a consumer, except the L&MV agriculture consumers, shall be 1.00% per month of delay or pro-rated for part thereof upto 3 months of delay, at 1.50% per month of delay or pro-rated for part thereof for any period beyond 3 months of delay but upto the next 3 months and at 2.00% per month of delay or pro-rated for part thereof beyond first 6 months of delay. Delay in payment shall be counted from the due date for payment.

The rates of the applicable delayed payment surcharge arising from non-payment of electricity charges as also other charges for the L&MV agriculture consumers shall be as follows:

Sl. No.	Period of non-payment	LPSC Rate
1	Up to 3 months	Nil
2	From 91 days to 180 days	1% per month or prorated for part thereof
3	From 181 days to 365 days	1.25% per month or prorated for part thereof
4	From 365 days onwards	1.5% per month or prorated for part thereof

These delayed payment surcharges are without prejudice to the provisions of disconnection under the Act and the Regulations made there under. However, if necessary Commission through any tariff order or any other order may from time to time change the applicable rate in percentage for determination of delayed payment surcharge.”

5. For regulation 5.8 of the Principal Regulations, following regulation shall be substituted:

“5.8 Fuel Cost Determination Principle

5.8.1 Determination of primary fuel cost for thermal generating stations, as well as the projection of primary fuel cost for the purpose of Multi Year Tariff shall consider coal sourced from the following:

- (i) Coal India Limited (CIL) – through linkage or e-auction or MOU;
- (ii) indigenous source of coal - through e-auction or any other means of auction or any other mechanism;
- (iii) overseas source - through reverse auction and competitive bidding;
- (iv) own overseas coal mine;
- (v) Captive coal mines - allocated free of cost; and
- (vi) Captive coal mines - allocated through reverse bidding;

5.8.2 In case of coal received from CIL or its subsidiaries through linkage or e-auction or MOU the landed price of coal will be considered following the principles mentioned in regulation 5.8.9 of these Regulations.

5.8.3 In case of coal sourced from indigenous coal mine through e-auction or any other means of auction or any other mechanism the price will be considered by the Commission 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;
- 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.

5.8.4 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.

Provided that the purchase price of overseas coal & ocean freight will be based on lowest of international index of relevant variety capping followed by reverse auction bidding. However at the time of delivery of coal the price will be as per the prevailing International index price. The shipping cost will also be considered in the similar manner:

Provided that before sourcing coal from overseas prior in principle clearance from the Commission is required and payment will be based on the original invoice of country of production.

5.8.5 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. 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 transfer price of the coal for the purpose of tariff determination under the Act.

5.8.6 Notwithstanding anything to the contrary contained elsewhere in these Regulations if the price of coal sourcing from own captive mines at foreign country is determined under any regulatory mechanism of that country, then the Commission may adopt such price as a basis for arriving at the landed cost of such coal for tariff determination.

5.8.7 In case of sourcing coal from Government allotted free of cost open cast mines, only transfer price of coal will be allowed as per separate order of the Commission to be issued in this regard and in consideration of the followings:

- a) Reserve price of Rs. 100 /Ton;
- b) Discovered price for mining by MDO;
- c) Coal Washery charges, if any;
- d) Coal crushing cost, if not already included in the MDO cost;
- e) Coal Transportation Cost and railway freight, if any;
- f) Cost towards capital investment for Silo, Rapid Transportation System, Railway siding etc.;
- g) Land cost, in case the land is returnable or compensatory land to be purchased and handed over to forest for release of forest land;
- h) Cost towards R&R;
- i) Manpower cost; and
- j) Royalty, cess, Taxes, duties and levies etc.
- k) Upfront fees, GR cost, Consent Cost, etc.;

Provided that the reserve price may be escalated using a pre-determined formula that is prescribed in the currently applicable Standard Bidding Documents for Case-I bidding as formulated by Ministry of Power, Government of India for escalation of fuel cost from captive coal mines:

Provided also 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.

5.8.8 In case of sourcing coal from Government allotted open cast mines through reverse bidding the transfer price of coal will be allowed as per separate order of the Commission to be issued in this regard and in consideration of the followings:

- a) Reserve price of Rs. 100 /Ton;
- b) Coal washery charges, if any;
- c) Coal crushing cost, if any;
- d) Coal Transportation Cost and railway freight, if any;
- e) Cost towards capital investment for Silo, Rapid Transportation System, Railway siding etc.; and
- f) Royalty, cess, duties and levies etc.;

Provided that the reserve price may be escalated using a pre-determined formula that is prescribed in the currently applicable Standard Bidding Documents for Case-I bidding as formulated by Ministry of Power, Government of India for escalation of fuel cost from captive coal mines:

Provided also that the Additional Premium, if any, shall not be reckoned for the purpose of determination of tariff of electricity:

Provided further that 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.

5.8.9 The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by rail / road or any other means, and, for the purpose of computation of energy charge, and in case of coal shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal dispatched by the coal supply company during the month as given below:

Pithead generating stations: 0.5%

Non-pithead generating stations: 0.8%

Provided that in case of pit head stations if coal is procured from sources other than the pit head mines which is transported to the station through rail, transit & handling loss of 0.8% shall be applicable:

Provided further that in case of imported coal, the transit and handling losses shall be 0.5% including in case such coal is Free on Board (FOB) at Port.

5.8.10 The landed price of limestone shall be taken based on procurement price of limestone for the generating station, inclusive of royalty, taxes and duties as applicable and transportation cost.

5.8.11 In case of part or full use of alternative source of fuel supply by coal based thermal generating stations other than as agreed by the generating company and beneficiaries in their power purchase agreement for supply of contracted power on account of shortage of fuel or optimization of economical operation through blending, the use of alternative source of fuel supply shall be permitted to generating station:

Provided that in such case, prior permission from beneficiaries shall not be a precondition, unless otherwise agreed specifically in the power purchase agreement:

Provided further that the procurement of coal through such alternative source of fuel supply, does not increase the fuel cost, as approved in ARR by more than 10% as approved by the Commission in its tariff order at the start of the control period.

5.8.12 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 larger quantity than that admitted in the tariff order or due to enhancement in power purchase cost for any justified reason whatsoever, the Commission may in order to reduce tariff rise in future due to accumulation of such entitled expenditure, allow provisionally on the basis of a Fuel Surcharge Formula termed as FPPCA in Schedule – 7A in pursuance to Section 62(4) of the Act an adhoc fuel cost or adhoc power purchase cost or adhoc variable cost as the case may be either suo-moto or on the basis of an application filed by a generating company or a licensee subject to reconciliation of such charges on receiving application for determination of FPPCA for that year. Adhoc variable cost will be applicable when there is increase in both fuel and power purchase cost for a licensee. While determining adhoc fuel cost or adhoc power purchase cost or adhoc variable cost, the fuel surcharge formula termed as FPPCA in Schedule-7A shall be used to determine the enhanced cost on account of fuel and power purchase cost. However while using such fuel surcharge formula termed as FPPCA in Schedule – 7A instead of actual expenses incurred on fuel and power purchase cost, the estimated fuel and power purchase cost for the year shall be computed on the basis of following:

- a) The actual latest price of fuel or power purchase cost as far as available for the ensuing year when application for such adhoc fuel cost or adhoc power purchase cost or adhoc variable cost is being made.
- b) The energy volume and mix as admitted in the ARR calculation for the concerned ensuing year in the tariff order of the first ensuing year of the concerned control period or the tariff order of that ensuing year, whichever is the latest order.
- c) The normative parameters and principles and methodology of computation as considered during ARR determination of the ensuing year concerned along with consideration of C_d and A as nil value for applicability of the fuel surcharge formula termed as FPPCA in Schedule – 7A.
- d) In case of non-availability of information for any ensuing year as per b) and c) above, for any reason whatsoever, the available information of such requirement as per any latest tariff order of the Commission on the licensees or generating company shall be used.

5.8.13 From the 1st April 2011 and onwards Monthly Variable Cost Adjustment (MVCA) shall be recoverable on monthly sale by the licensee from its consumer and purchaser of electricity under the purview of the Commission through applying a Fuel Surcharge Formula for this purpose only as provided in paragraph A of Schedule – 7B in pursuance to Section 62(4) of the Act.

Similarly from the 1st April 2011 and onwards Monthly Fuel Cost Adjustment (MFCA) shall be recoverable on the monthly energy sale by the generating company from the purchaser of electricity under the purview of the Commission through applying a Fuel Surcharge formula for this purpose only as provided in paragraph B of Schedule – 7B in pursuance to Section 62(4) of the Act.

The licensee or generating company will apply the above Fuel Surcharge Formula of Schedule – 7B directly by them to determine the applicable MVCA or MFCA for recovery from the consumer or purchaser of electricity under the purview of the Commission through their electricity bill subject to annual reconciliation during determination of APR and/or FPPCA as per Schedule – 7A to be done by the Commission.

The applicable MVCA or MFCA shall be displayed in the website of the licensee or generating company and such website shall maintain the applicable MVCA or MFCA for last 24 months at any instant of time. Whenever there will be change in MVCA or MFCA the licensee or generating company shall publish such information through two daily newspapers in the area of operation of the licensee or generating company. While calculating MVCA or MFCA for each month, the licensee or generating company shall prepare a complete work sheet showing the computation of applicable MVCA or MFCA along with the basis of data and supporting documents. Licensees or generating company have to submit the complete worksheet before the Commission within one week of publication in news paper along with copy of the news papers. In case no change in MVCA / MFCA happens for any month from the previous month Licensees or generating company shall have to submit the complete worksheet before the Commission within 7 days after the end of the month under consideration for MVCA/ MFCA. The working details and supporting documents may required to be submitted before the Commission by the licensee or generating company whenever called for it, for verification by the Commission.

- 5.8.14 The applicable MVCA or MFCA shall be computed on the basis of fuel and power purchase cost or fuel cost, as the case may be, of the preceding month of the month for which electricity bills are to be issued.

Provided that if the tariff order of any ensuing year is issued after April of any ensuing year then till such tariff order is issued MVCA and MFCA will be computed on the basis of paragraph (d) of the note under paragraph (A) and (B) of Schedule-7B.

- 5.8.15 In case any supplementary bill on power purchase cost or fuel cost of previous year is received such bill shall normally be considered for FPPCA of the concerned ensuing year. However if the order on FPPCA of that ensuing year is already issued by the Commission then such supplementary bill may be considered under the application of FPPCA for any future ensuing year but it shall not be provided in the MVCA or MFCA computation.

Provided that if the supplementary bill on power purchase cost or fuel cost for any previous year is payable due to any order of the Commission & CERC, then such

amount of the supplementary bill paid during the period for which MVCA or MFCA is raised shall be applicable for computation of MVCA or MFCA for the concerned period.

5.8.16 On the basis of any application or suo-moto Commission may issue order from time to time on MVCA and MFCA for providing any clarification or removal of any difficulties or any other matter as deemed fit by the Commission and such order shall be displayed in the website of the Commission and the licensee and generating company.

5.8.17 The recovery against MVCA or MFCA along with the tariff and any Adhoc Power Purchase Cost Adjustment, Adhoc Variable Cost Adjustment or Adhoc Fuel Cost Adjustment will be subject to reconciliation against Admitted Fixed Cost and Variable Cost in APR and FPPCA of the concerned year.

6. After regulation 5.11.2 of the Principal Regulations, the following regulation shall be inserted:

“5.11.3 Unforeseen exigency fund may also be utilized for the purposes of energy efficiency improvement related activities after getting prior approval from the Commission.”

7. For regulation 6.5 of the Principal Regulations, the following regulation shall be substituted:

“6.5. Deviation Settlement (DS) Charge:

6.5.1. Variation of actual injection / drawal with scheduled injection/ drawal shall be accounted through deviation settlement (DS) charges. The applicable rates for DS charges shall be as per frequency linked rate specified by Central Electricity Regulatory Commission. SLDC shall prepare the Deviation Settlement Account as per the Balancing and Settlement Code.”

7.1 For all other regulations the words “Unscheduled Interchange” and “UI” shall be substituted with the words “Deviation Settlement” and “DS” respectively.

8. For regulation 8.5.4 of the Principal Regulations, the following regulation shall be substituted:

“Notwithstanding anything contained in these Regulations for any payment made within due date an additional rebate of 1% of the amount of energy bill or any other bill excluding meter rent, taxes, duties, levies and arrears (not being arrears due to revision of tariff) will

be applicable subject to a maximum limit of Rs 10,000.00 (Rupees Ten Thousand) per bill, if such payment is made through e- payment gateway using debit or credit card or internet banking or electronic clearing system or any other mode viz. valued card wallet system or USSD or Instapay of banks or online payment through mobile software application which is an optional payment scheme to the consumer for payment of energy bill or any other bill to any licensee other than payment mode through own cash counter of the licensee. The applicable e-payment gateway service charge, if any, to the service provider is to be provided by the Licensee. Licensee shall maintain proper accounting of such charges which shall be adjusted during APR after prudence check.

Provided that any additional charges claimed by banks or service provider like LC charges, charge for NEFT/ RTGS, etc. are to be paid by the consumers themselves.”

9. The parameter CVPF under sl. no (ii) in paragraph 8.1 of Schedule -1 of the Principal Regulations, shall be substituted as below:

“CVPF = Weighted average Gross calorific value of primary fuel as fired, in kCal per kg, per litre or per standard cubic meter, as applicable. In case of blending of fuel from different sources, the weighted average Gross calorific value of primary fuel shall be arrived in proportion to blending ratio. Commission will separately notify through order a basis for calculating as fired GCV of coal.”

10. Note (b) of paragraph A of Schedule-7B of Principal Regulation shall be substituted with the following:

“(b) While computing as per above formula, the Regulations 5.8.15 and 5.8.16 of these Regulations shall be duly taken into consideration”

11. Clause (b) of paragraph-B of Schedule-7B of the Principal Regulations shall be substituted with the following:

“(b) Value to be taken for the month.

The following values shall be taken on monthly basis for the month preceding the month for which MFCA is to be determined.

E_g = Sent out energy from the Power Station (MU)

Oil_{price} = Price of Oil (Rs/KL)

Oil_{gcv} = GCV of oil (Kcal/lit)

Coal_{GCV}: = Average Gross Calorific Value (GCV) of coal as fired (Kcal/Kg)

Coal_{price} =Average coal price Rs/MT”

In clause (d) of paragraph-B of Schedule-7B of the Principal Regulations the word “Coal_{UHV}” shall be substituted with the word “Coal_{GCV}”.

Note (b) of paragraph B of Schedule-7B of Principal Regulation shall be substituted with the following:

“(b) While computing as per above formula, the Regulations 5.8.15 and 5.8.16 of these Regulations shall be duly taken into consideration”

12. Amendment in Schedule- 9A of the Principal Regulations:

Paragraph D of Schedule-9A of the Principal Regulations shall be modified to the following extent:

D. Norms of Distribution Losses for Different Distribution Licensees:

DISTRIBUTION LICENSEE	NORMS FOR DISTRIBUTION LOSS (%) FOR THE YEAR 2017-18 AND ONWARDS
CESC	11.50 %
IPCL (former DPSC)	2.30%

13. Paragraph J of Schedule-9A of the Principal Regulations shall be modified to the following extent:

NORMATIVE O&M COST FOR HYDRO & SOLAR POWER PLANT IN RUPEES LAKH/MW ONLY		
NAME OF PLANT	2017-18	Annual increase (in %)
		2018-19 onwards
Jaldhaka HEP	16.14	5%
Rammam HEP	11.21	5%
Small Hydro	15.97	5%
Purulia Pumped Storage	3.00	5%
Solar	7.50	5%

14 Amendment in Annexure-C2 of the Principal Regulations:

14.1 For the Table in Annexure – C2 of the Principal Regulations, tariff schemes for L&MV consumers under sl no (v), (vi), (vii), (viii) and for HV&EHV consumers under sl no (ii), (iii), (iv), (v), (vi), (xi) shall be substituted as below:

TARIFF SCHEME FOR DIFFERENT CLASS OF CONSUMERS

SI	Class of Consumers	Applicable Tariff Scheme	Optional Tariff Scheme	TOD Scheme
A	<u>LV & MV CONSUMERS:</u>			
(v)	Irrigation	Normal –TOD	Prepaid – TOD	C
(vi)	Commercial Plantation.	Normal - TOD	Prepaid – TOD	C
(vii)	Short Term Irrigation Supply	Normal - TOD	Prepaid – TOD	C
(viii)	Short Term supply for Commercial Plantation	Normal - TOD	Prepaid – TOD	C
B	<u>HV & EHV CONSUMERS</u>			
(ii)	Industries	Normal	Normal –TOD	C
(iii)	Irrigation	Normal –TOD	-	C
(iv)	Commercial Plantation	Normal –TOD	-	C
(v)	Short Term Irrigation Supply	Normal –TOD	-	C
(vi)	Short Term supply for Commercial Plantation	Normal –TOD		C
(xi)	Cold Storage or dairy with chilling plant	Normal	Normal –TOD	C

By order of the Commission

Place: Kolkata

Date:

J. C. Chakraborty

Secretary

West Bengal Electricity Regulatory Commission