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ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO 4, CHUNOKOLI, SHAILASHREE VIHAR,
BHUBANESWAR - 751021

NOTIFICATION

The 29th May 2024

No. 597—DIR (T)-419/2023—In exercise of the powers conferred under section 181, of the Electricity Act, 2003 (36 of 2003), read with section 62 and section 86 thereof and all other powers enabling it in this behalf, and after previous publication, the Odisha State Electricity Regulatory Commission hereby makes the following Regulations, namely:

CHAPTER 1

PRELIMINARY

1. Short Title, Extent and Commencement

- a. These regulations shall be called the Odisha Electricity Regulatory Commission (Determination of Input Price of Coal from Integrated mine) Regulations, 2024.
- b. These Regulations shall be read in conjunction with OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 as amended from time to time.
- c. These Regulations shall come into force from the date of their notification in the Official Gazette.
- d. Allottee companies which have COD before the publication of these Regulations in the Official Gazette are deemed to have been covered under these Regulations.
- e. These Regulations shall extend to the whole of the State of Odisha.

- f. These regulations shall also apply to all cases where a Generating company has the arrangement for supply of coal from the integrated mine(s), for one or more specified end use Generating stations, whose tariff is required to be determined by the Commission under section 62 of the Act read with section 86 thereof.

2. Objective

The objective of these regulations is to determine the input price of coal sourced from integrated mine(s) of Allottee Company for generation of electricity which will be supplied to the beneficiaries.

3. Definitions

- (1) In these regulations, unless the context otherwise requires,
- a) "**Act**" means the Electricity Act, 2003 (36 of 2003);
 - b) "**Agreement**" shall mean the Fuel Supply Agreement including all its Schedules, Annexure and attachments and subsequent amendments between the Allottee Company (**hereinafter called Seller**) and the Purchaser (company owning the power generation facility);
 - c) "**Allotment Agreement**" shall mean the Allotment Agreement between the President of India and the Allottee Company as defined hereunder in respect of the Coal Mine and the allotment orders issued pursuant to aforesaid agreement which may be further amended from time to time;
 - d) "**Allottee Company**" shall mean the company which has been allotted the Coal Mine by the Ministry of Coal, Government of India for supply of coal to the specified end use Generating plants for generation of electricity and supply to its beneficiaries;
 - e) "**Annual Contracted Quantity**" or "**ACQ**" shall mean the quantity of Coal agreed to be supplied by the Seller and undertaken to be purchased by the Purchaser on an annual basis commencing from the First Delivery Date, as specified in Fuel Supply Agreement (FSA);
 - f) "**Annual Target Quantity**" or '**ATQ**' in respect of an integrated mine(s) means the quantity of coal to be extracted during a year from such integrated mine(s) as specified in the Mining Plan;

Provided that in case the integrated mine(s) of coal is ready for supply of coal as per the Mining Plan but is prevented due to reasons not attributable to the Generating Company, the Commission may relax the Annual Target Quantity up to a

maximum of 15% of the quantity of coal to be extracted during a year as specified in the Mining Plan.

- g) **"Applicable Laws"** shall mean all laws, brought into force and effect by the Government of India ("GoI") or State Government including rules, acts, statutes, regulations and notifications, guidelines or policies (to the extent mandatory) made there under, and judgments, decrees, injunctions, writs and orders of any Court of record, or any interpretation or administration of any of the foregoing, by any Authority concerning, relating to or having jurisdiction over the Coal Mine, as may be applicable to either Seller or the Purchaser, their obligations or Fuel Supply Agreement as amended from time to time;
- h) **"Authority"** shall mean any National or State Government Department, local Government council, Inspection Authority, Courts, Tribunal, Regulatory bodies and quasi-judicial body, boards, bureaus, instrumentalities of Government, Commissions, municipality, corporations, branches, directorates, agencies, ministries and any other statutory authority of Government of India or relevant State Government, exercising any sovereign function;
- i) **"Basic Pit Head Price of RoM Coal"** shall mean the price notified by Coal India Limited (CIL Notified Price) for corresponding Grade of Coal for the purpose of payment of statutory charges;
- j) **"Business Day"** shall mean each Monday, Tuesday, Wednesday, Thursday, Friday and Saturday that is not declared a holiday in the State of Odisha under the Negotiable Instruments Act, 1981;
- k) **"Capital Cost"** means the capital cost as determined in Regulation 11 of these regulations in respect of integrated mine(s);
- l) **"Coal"** shall mean non-coking as well as washery grade coal not linked to coking coal washeries, produced from the Coal Mine by the Seller, falling within the different classes, grades and sizes into which Coal is categorized from time to time, in the notification/order issued for such purpose by the Ministry of Coal, Government of India or the State Government or Seller, as the case may be;
- m) **"Date of Commercial Operation (COD)"** shall mean the date of commercial operation and in case of integrated mine(s) it shall mean the earliest of —
 - a) the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or

- b) the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 5 of these regulations, exceeds total expenditure in that year; or
- c) the date of two years from the date of commencement of production:

Provided that on earliest occurrence of any of the events under sub-clauses (a) to (c) of this Regulation, the Allottee Company shall declare the Date of Commercial Operation of the integrated mine(s) under the relevant sub-clause with one-week prior intimation to the end-use generating station(s) and its beneficiaries;

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

Provided also that the Allottee Company seeking the approval of the date of commercial operation under the preceding proviso shall give prior notice of one month to the end use generating station(s) and beneficiaries of the integrated mine(s) regarding the Date of Commercial Operation.

- n) **“Date of Commencement of Production”** in respect of integrated mine(s) means the date of touching of coal as declared by the Allottee Company;
- o) **“Declared Grade”** shall mean grade of the Coal, as declared by Ministry of Coal, Government of India or State Government or the Seller specific to the Coal Mine / Coal Seams / Coal stock for corresponding Year;
- p) **“Fuel Supply Agreement” or “FSA”** means the agreement executed between the Generating Company and the fuel supplier for the generation and supply of electricity to the beneficiaries;
- q) **“End Use Plant”** shall mean the specified end use plants as mentioned in the Coal Allocation Agreement of Government of India;
- r) **“Escrow Account”** means the account for deposit and withdrawal of mine closure expenses of integrated mine(s), maintained in accordance with the guidelines issued by the Coal Controller, Ministry of Coal, Government of India;

- s) **“Input Price”** means the price of coal sourced from the integrated mines at which the coal is transferred to the generating station for the purpose of computing the energy charges for generation and supply of electricity to the beneficiaries and determined in accordance with these regulations;
- t) **“Integrated Mine”** means the Coalmine (allocated to the Allottee Company for use in one or more end use Generating Plant) or basket coal mine (allocated to a Generating Company for use in any of its Generating Stations) or both being developed by the Allottee Company for supply of coal to one or more specified end use Generating stations for generation and sale of electricity to the beneficiaries.
- u) **“Investment Approval”** means approval by the Board of the Allottee Company or any other competent authority conveying administrative sanction for the project including funding of the project and the timeline for the implementation of the project:
Provided that the date of Investment Approval shall be reckoned from the date of their solution of the Board of the Allottee company where the Board is competent to accord such approval and from the date of sanction letter of competent authority in other cases;
Provided further that in respect of the integrated mine(s), funding and timeline for implementation shall be indicated separately and distinctly in the Investment Approval;
Provided further that where investment approval includes both the Generating Station and the integrated mine(s), the funding and timeline for implementation of the integrated mine(s) shall be worked out and indicated separately and distinctly in the Investment Approval.
- v) **“Loading Point”** in respect of integrated mine(s) means the location of railway siding or silo or the coal handling plant or such other arrangements like conveyor belt, whichever is nearest to the mine for dispatch of coal, as the case may be, where Coal will be delivered by the Seller through its Mine Operator or otherwise to the Purchaser;
- w) **“Merry Go Round”** or **“MGR”** shall mean the Purchaser’s captive rail transportation system for transportation of Coal from the Coal Mine up to the unloading point at End Use Plant;
- x) **“Mine Infrastructure”** shall include assets of the integrated mine(s) such as tangible assets used for mining operations, being civil works, workshops, immovable winning equipment, foundations, embankments, pavements, electrical systems, communication systems, relief centres, site administrative offices, fixed installations, handling arrangements, crushing and conveying systems, railway sidings, pits, shafts, inclines,

underground transport systems, hauling systems (except movable equipment unless the same is embedded in land for permanent beneficial enjoyment thereof), land demarcated for afforestation and land for rehabilitation and resettlement of persons affected by mining operations under the relevant law;

- y) **“Mine Operator”** shall mean the contractor appointed by the Seller for the development and operation of the Coal Mine in terms of the MSA;
- z) **“Mining Plan” or “Mine Plan”** in respect of integrated mine(s) means a plan prepared in accordance with the guidelines issued by the Ministry of Coal, Government of India as amended from time to time or provisions of the Mineral Concession Rules, 1960, as amended from time to time and approved under clause (b) of sub-section (2) of section 5 of the Mines and Minerals (Development and Rehabilitation) Act, 1957 by the Central Government or by the State Govt., as the case may be;
- aa) **“Monthly Scheduled Quantity” or “MSQ”** shall mean the quantity out of the ACQ scheduled to be delivered every month as provided in PPA/FSA;
- bb) **“MSA”** shall mean the Mining Service Agreement executed between Seller and Mine Operator and subsequent amendments;
- cc) **“Nominated Authority”** shall mean the Nominated Authority appointed under Section 6(1) of the Coal Mines (Special Provisions) Act 2015;
- dd) **“Operation & Maintenance Expenses” or “O&M Expenses”** means the expenditure incurred for operation and maintenance of the integrated mine, and includes the expenditure on manpower, maintenance, Repairs & Maintenance spares, consumables, insurance and overheads

Provided that for integrated mine(s), the Operation & Maintenance Expenses shall not include the mining charge paid to the Mine Developer and Operator, if any, engaged by the Allottee Company and the mine closure expenses.
- ee) **“Peak Rated Capacity”** in respect of integrated mine(s) means the peak rated capacity of the mine, as specified in the Mining Plan;
- ff) **“Run of Mine Coal” or “ROM Coal”** shall mean the coal as extracted from the colliery and which has not undergone any processing or resizing to suit the requirement of the user;
- gg) **“State Government”** shall mean the Government of Odisha which includes but not

limited to Energy Department of Government of Odisha;

- hh) **“Surplus Coal”** shall mean coal produced in the Coal Mine over and above the actual coal requirement of specified End Use Plant, read with the relevant guidelines of Ministry of Coal, Government of India;
- ii) **“Third Party Agency”** or **“TPA”** shall mean the independent agency appointed by Seller in agreement with the Purchaser for conduct of third-party sampling & analysis at the Coal Mine;
- jj) **“tonne”** means metric tonne of coal in respect of integrated mine (s),
- kk) **“Useful Life”** in relation to integrated mines from the Date of Commercial Operation shall be as per the mining plan.
- ll) **“Year”** shall mean, a financial year beginning on 1st April and ending on 31st March:

Provided that in case of new integrated mine(s), the first year shall commence from the Date of Commercial Operation and end on the immediately following 31st March;

- (2) Words and expressions used and not defined in these Regulations but defined in the Act or OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2020 as amended from time to time or any other Regulation of the Commission shall have the meaning assigned to them under the Act or any other Regulation of the Commission as the case may be;

4. Application for determination of Input Price

- (i) The Allottee company having Fuel Supply Agreement (FSA) with the end use generating plant(s) for the supply of coal from an integrated mines shall file a petition in accordance with these Regulations for determination of input price of coal not later than 90 days from the Date of Commercial Operation of the integrated mine or from the date of notification of these regulations.

Provided further, that the Allottee Company having integrated mine(s) shall file petition before the Commission as perform at provided by the Commission for determination of the input price of coal from the integrated mine(s) containing the details of expenditure incurred and projected to be incurred duly certified by the Auditor.

5. Input Price of coal

- (1) Input price of coal from the integrated mine(s) shall be determined based on the following components:
 - I) Run of Mine (ROM) Coal Cost; and
 - II) Additional charges:
 - a. crushing charges;
 - b. transportation charge within the mine up to the washery end or coal handling plant associated with the integrated mine, as the case may be;
 - c. handling charges at mine end;
 - d. washing charges and
 - e. transportation charges beyond the washery end or coal handling plant as the case may be, and up to the loading point:

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

- (2) Statutory Charges and taxes, over and above as applicable, shall also be allowed.
- (3) The Allottee Company shall, after the Date of Commercial Operation of the integrated mine(s) till the input price of coal is determined by the Commission under these regulations, adopt the notified price of Coal India Limited commensurate with the grade of the coal from the integrated mine(s) or the estimated price available in the investment approval, whichever is lower, as the Input Price of Coal for the End Use Generation Plant:

Provided that the difference between the input price of coal determined under these regulations and the input price of coal so adopted prior to such determination, the quantity of coal billed shall be adjusted in accordance with Clause (4) of this Regulation.

- (4) In case of excess or short recovery of input price under Clauses (3) of this Regulation, the Allottee Company shall refund the excess amount or recover the shortfall amount, as the case may be, with simple rate of interest equal to one-year MCLR of SBI prevailing as on 1st April of the respective years of the tariff period, in six equal monthly installments. Accordingly, the Allottee

Company shall refund / recover such amount to/ from the Generating Company:

Provided that such interest shall be payable till the date of determination of Input Price of Coal by the Commission:

Provided that in case there is a delay in filing the Petition for determination of input price as per the timelines specified under Regulation (4) of these Regulations, no carrying cost shall be allowed to the Allottee Company for such delay and in such cases the carrying cost at the simple interest rate of 1-year SBI MCLR shall be allowed from the date of filing of the Petition.

6. Run of Mine (ROM) Coal Cost

- (1) Run of Mine Cost of coal in case of integrated mine allocated through allotment route under the Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:

ROM Cost= [$\{\text{Annual Extraction Cost (Rs) / Annual Target Quantity (ATQ) or Actual Production whichever is higher}\} + \text{Mining Charge}$] + (Fixed Reserve Price).

Where,

- (i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 13 of these regulations;
- (ii) Mining Charge is the charge per tonne of coal paid by the Allottee Company to the Mine Developer and Operator engaged by the Allottee Company for mining, wherever applicable; and
- (iii) Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement.
- (2) Run of Mine Cost of coal in case of integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015 shall be worked out as under:

ROM Cost = (Quoted Price of coal) + (Fixed Reserve Price)

Where,

- (i) Quoted Price of coal is the Final Price Offer of coal per tonne in respect of the concerned coal block or mine, along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement:

Provided that additional premium, if any, quoted by the Allottee Company during auction, shall not be considered in the Run of Mine Cost;

- (ii) Fixed Reserve Price is the fixed reserve price per tonne along with subsequent escalation, if any, as provided in the Coal Mine Development and Production Agreement and
- (iii) Capital cost and additional capital expenditure under these Regulations shall not be admissible for the purpose of ROM cost in respect of integrated mine(s) allocated through auction route.

- (3) The Allottee Company shall adhere to the Mining Plan for extraction of coal on annual basis and shall submit a certificate to that effect from the Coal Controller, Ministry of Coal, Government of India or the competent authority:

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

- (4) Run of Mine Cost of coal shall be worked out in terms of Rupees per tonne.

7. Additional Charges

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

(i) Crushing Charges (Rs. Per tonne) = Annual Crushing Cost/Quantity;

(ii) Transportation Charges (Rs. Per tonne) = Annual Transportation Cost/Quantity:

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

(iii) Handling charges (Rs per tonne) = Annual Handling Cost/Quantity; and

(iv) Washing Charges (Rs per tonne)= Annual Washing Cost/Quantity.

Where,

- (a) Annual Crushing Cost, Annual Transportation Cost, Annual Handling Cost and Annual Washing Cost shall be worked out on the basis of following components, for which the Allottee Company shall submit the capital cost separately:
- (i) Depreciation;
 - (ii) Interest on Working Capital;
 - (iii) Interest on Loan;
 - (iv) Return on Equity;
 - (v) Operation and Maintenance Expenses, excluding mining charge;
 - (vi) Statutory charges, if applicable.
- (b) Quantity shall be the quantity of coal in tonne crushed or transported or handled or washed, as the case may be, during the year duly certified by the Auditor.
- (2) Where crushing / sizing, transportation, handling and washing are within the scope of the Mine Developer and Operator engaged by the Allottee Company, no additional charges shall be admitted, as the same shall be recovered through Mining Charge of the Mine Developer and Operator.
- (3) Where crushing / sizing, transportation, handling and washing are undertaken by the Allottee Company by engaging an agency other than Mine Developer and Operator, the annual charges of such agencies shall be considered as part of the Operation and Maintenance Expenses, provided that the charges have been discovered through a transparent competitive bidding process.
- (4) The crushing/ sizing charges, transportation charges, handling charges, and washing charges shall be admitted by the Commission after prudence check, considering charges of Coal India Limited or similarly placed coal mines or any other reference charges.
- (5) The crushing/ sizing charges, transportation charges, handling and washing charges shall be worked out in terms of Rupees per tonne.

8. Supply of Coal prior to the Date of Commercial Operation of Integrated Mine

The input price for supply of coal from the integrated mine(s) prior to their Date of Commercial Operation shall be the estimated price available in the investment

approval or the notified price of Coal India Ltd for the corresponding grade of coal supplied to the power sector, whichever is lower;

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

9. Truing up of Input Price of Coal

The input price of coal from the integrated mine(s) of the Allottee Company shall be trued up by the Commission for the control period FY 2024-29 in respect of the following:

- a) the capital expenditure including additional capital expenditure incurred up to 31.3.2029, as allowed by the Commission after prudence checks;
- b) the capital expenditure including additional capital expenditure incurred up to 31.3.2029, on account of Force Majeure and Change in Law, as admitted by the Commission.
- c) The Operation & Maintenance expenses in accordance with provisions of Regulation (16) of these Regulations.

After truing up, if the input price already recovered exceeds or falls short of the input price approved by the Commission under these regulations, the Allottee Company shall refund such excess amount or recover the shortfall amount, as the case may be, from the Generating Company along with simple interest equal to one-year MCLR of SBI prevailing as on 1st April of the respective years of the tariff period in six equal monthly installments. Accordingly, the Generating Company shall refund / recover such amount to/ from the beneficiary.

10. Energy Charge

In case of supply of coal from integrated mine(s), it shall be based on the Input Price of coal as computed in accordance with these Regulations and accordingly Energy Charge in respect of Thermal Generating Station shall be determined as per OERC Generation Tariff Regulations, 2020 as amended from time to time.

CHAPTER 2

11. Capital Cost

- a) The expenditure incurred, including Interest During Construction (IDC) and Incidental Expenditure During Construction (IEDC), duly certified by the Auditor of the company, for development of the integrated mine(s) up to the Date of Commercial Operation, shall be considered for arriving at the capital cost.
- b) Capital expenditure incurred shall be admitted by the Commission after prudence check.
- c) Capital expenditure incurred on infrastructure for crushing, transportation, handling and washing and other mining activities required for mining operations shall be arrived at separately in accordance with these Regulations:

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

Provided further that where mine development and operation, with or without any component of crushing, transportation, handling and washing are undertaken by the Allottee Company by engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, the capital expenditure incurred by Mine Developer and Operator or such agency shall not be capitalized by the Allottee Company and shall not be considered for the determination of input price.

- d) The capital expenditure shall be determined by considering, but not limited to, the Mining Plan, detailed project report, mine closure plan, cost audit report and such other details as deemed fit by the Commission.
- e) In the case of integrated mine(s) which has declared the Date of Commercial Operation prior to 01.04.2024, the capital expenditure allowed after prudence check by the Commission for the period ending 31.03.2024 shall form the basis for the computation of input price.

12. Additional Capital Expenditure

- 1) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the Date of Commercial Operation (CoD) and upto the date of achieving the Peak Rated Capacity may be admitted by the Commission, subject to prudence check and shall be capitalized in the respective year of the tariff period as additional Capital Expenditure on following counts:

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

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

- (2) The expenditure, in respect of the integrated mine(s), incurred or projected to be incurred after the date of achieving the Peak Rated Capacity may be admitted by the Commission subject to prudence check, and shall be capitalized as Additional Capital Expenditure on following counts:

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

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

- (3) The expenditure on following counts shall not be considered as additional capital expenditure for the purpose of these regulations:
- a) expenditure incurred but not capitalized as the assets have not been put in service (capital work in progress);
 - b) mine closure expenses;
 - c) expenditure on works not covered under Mining Plan, unless covered under sub-clause (g) of Clause (1) or sub-clause (e) of Clause (2) of this Regulation;
 - d) expenditure on replacement due to obsolescence of assets on account of completion of the useful life or due to obsolescence of technology, if the original cost of such assets has not been de-capitalized from the gross fixed assets.
- (4) The Allottee Company undertaking any additional capitalization in integrated mine (s) on account of change in law events or force majeure conditions may, after intimating the end use generating company or beneficiaries, file petition for in-principle approval for incurring such expenditure, along with underlying assumptions, estimates and justification for such expenditure, if the estimated expenditure exceed 10% of the admitted capital cost of the integrated mine(s) or Rs 100 crores, whichever is lower;
- (5) In the case of integrated mine(s) which has declared the Date of Commercial Operation prior to 01.04.2024, the additional capital expenditure allowed after prudent check by the Commission for the period ending 31.03.2024 shall from the basis for the computation of input price.

13. Annual Extraction Cost

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

- (i) Depreciation;
- (ii) Interest on Loan;
- (iii) Return on Equity;
- (iv) Operation and Maintenance Expenses, excluding mining charge;
- (v) Interest on Working Capital;
- (vi) Mine closure expenses, if not included in mining charge; and
- (vii) Statutory charges, if applicable.

14. Capital Structure, Return on Equity and Interest on Loan Capital

- (1) For integrated mine(s), debt-equity ratio as on the Date of Commercial Operation (CoD) and as on the date of achieving Peak Rated Capacity shall be considered in the manner as specified hereunder:

The debt equity ratio of 70:30 as on Date of Commercial Operation shall be considered and if the equity actually deployed is more than 30% of the capital cost, the equity in excess of 30% shall be treated as normative loan;

Provided that where actual equity employed is less than 30% of the capital cost, the actual debt and equity shall be considered for determination of tariff;

Provided further that the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment;

Provided further that any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt: equity ratio.

Explanation-The premium, if any, raised by the Allottee Company, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid-up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually utilised for meeting the capital expenditure of the Allottee Company.

- (2) The Allottee Company shall submit a resolution of the Board of the company or approval of the competent authority in case of infusion of funds from internal resources in support of the utilization made or proposed to be made to meet the capital expenditure of the integrated mine(s).
- (3) For integrated mine(s), debt-equity ratio for additional capital expenditure admitted by the Commission under these regulations shall be considered in the manner as specified under Regulation 14(1) of these Regulations.
- (4) Return on equity shall be computed in rupee terms on the equity base arrived under Regulation 14(1) of these Regulations at the Base Rate of 14%.
- (5) The base rate of return on equity as per regulation 14(4) of this Regulation shall be grossed up with the effective tax rate computed in the manner specified under these regulations and shall be recovered as a part of annual extraction cost.
- (6) The base rate of return on equity as allowed by the Commission under Regulation 14(4) of these regulations shall be grossed up with the effective tax rate of the respective financial year. The effective tax rate shall be calculated at the beginning of

every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the concerned Allottee Company and the corresponding tax thereon.

Provided that in case the Allottee Company is paying Minimum Alternate Tax (MAT) under Section 115JB of the Income Tax Act, 1961, the effective tax rate shall be the MAT rate, including surcharge and cess;

Provided further that in case Allottee Company has opted for Section 115BAA, the effective tax rate shall be tax rate including surcharge and cess as specified under Section 115BAA of the Income Tax Act, 1961.

- (7) The rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

$$\text{Rate of pre-tax return on equity} = \text{Base Rate} / (1-t)$$

- (8) The Allottee Company shall true up the tax basing on effective tax rate for every financial year based on actual tax paid together with any additional tax demand, including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2024-29 on actual gross income of any financial year. Further, any penalty arising on account of delay in deposit or short deposit of tax amount shall not be considered while computing the actual tax paid for the company.

Provided that in case a Allottee Company is paying Minimum Alternate Tax (MAT) under Section 115JB, the company shall true up the grossed-up rate of return on equity at the end of every financial year with the applicable MAT rate including surcharge and cess.

Provided that in case a Allottee Company is paying tax under Section 115BAA, the company shall trueup the grossed-up rate of return on equity at the end of every financial year with the tax rate including surcharge and cess as specified under Section 115BAA.

- (9) The loans arrived at the manner indicated in Regulation 14(1) of these Regulations shall be considered gross normative loan for the calculation of Interest on loan. Interest on loan shall be calculated on the normative average loan of the year by applying weighted average rate of interest.
- (10) The normative loan outstanding as on 01.04.2024 shall be worked out by deducting the cumulative repayment upto 31.03.2024 from the gross normative loan.

- (11) The repayment on each of the year of the tariff period 2024-29 shall be deemed to be equal to the depreciation allowed for the corresponding year or period. In case of decapitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis, and the adjustment should not exceed cumulative depreciation recovered up to the date of de-capitalisation of such asset.
- (12) The changes to the terms and condition of the loans shall be reflected from the date of such refinancing.
- (13) The rate of interest on loan shall be arrived at by considering the weighted average rate of interest calculated on the basis of the actual loan portfolio:

Provided that there is no actual loan outstanding for a particular year but the normative loan is still outstanding then the last available weighted average rate of interest of the loan portfolio for the project shall be considered.

- (14) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest:

Provided further that if the allottee company does not have any actual loan then the rate of interest for a loan shall be considered as 1-year MCLR of the State Bank of India as applicable as on 1st April of the relevant financial year.

15. Depreciation

- (1) Depreciation in respect of integrated mine(s) shall be computed from the Date of Commercial Operation by applying Straight Line Method:
- (2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission:

Provided that,

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

- (3) The salvage value of an asset shall be considered as 5% of the capital cost of the asset:

Provided that the salvage value shall be:

- i) zero for IT equipment and software;
 - ii) zero or as agreed by the generating company with the State Government for land; and
 - iii) as notified by the Ministry of Corporate Affairs under the Companies Act, 2013 for specialized mining equipment.
- (4) Depreciation in respect of integrated mine(s) shall be arrived at annually by applying depreciation rates or on the basis of expected useful life specified in **Appendix A** of these regulations:

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

16. Operation and Maintenance Expenses

- (1) The Operation and Maintenance Expenses in respect of integrated mine(s) shall be allowed as under:

- (a) The Operation & Maintenance expenses in respect of integrated mine(s) of coal, for the tariff period ending on 31st March 2029 shall be allowed basing on the projected/ actual Operation & Maintenance Expenses for each year of the tariff period subject to prudence check by the Commission:

Provided that the Operation & Maintenance expenses allowed under this Regulation shall be trued up based on actual expenses for the tariff period ending on 31st March, 2029 after prudence check.

- (2) Where the development and operation of the integrated mine(s) is undertaken by the Allottee Company by engaging Mine Developer and Operator, the Mining Charge of such Mine Developer and Operator shall not be included in Operation & Maintenance Expenses under Regulation 16(1) of these Regulations;
- (3) Where an agency other than Mine Developer and Operator is engaged by the Allottee Company, through a transparent competitive bidding process, for crushing or transportation or handling or washing or any combination thereof, the annual charges of such agency shall be considered as part of Operation & Maintenance Expenses under Regulation 16(1) of these Regulations, subject to prudence check by the Commission.

17. Interest on Working Capital

- (1) The working capital of the integrated mine(s) of coal shall cover:
 - (i) Input cost of coal stock for 7 days of production corresponding to the Annual Target Quantity for the relevant year;
 - (ii) Consumption of stores and spares including explosives, lubricants and fuel at the rate of 15% of Operation and Maintenance expenses, excluding mining charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the Allottee Company; and
 - (iii) Operation & Maintenance expenses for one month, excluding mining charge of Mine Developer and Operator and annual charges of the agency other than Mine Developer and Operator, engaged by the Allottee Company.
- (2) Rate of interest on working capital shall be on normative basis and shall be equal to the Marginal cost of funds based Lending Rate (MCLR) of the State Bank of India (SBI) issued from time to time plus 300 basis points as on 1st April of the year during the tariff period 2024-29 in which the integrated mine or a unit thereof, is declared under commercial operation:

Provided that in case of triuing-up, the rate of interest on working capital shall be considered at the Marginal cost of funds-based Lending Rate (MCLR) of the State Bank of India (SBI) issued from time to time plus 300 basis points as on 1st April of each of the financial year during the tariff period 2024-29.
- (3) Interest on working capital shall be payable on normative basis notwithstanding that the Allottee Company has not taken loan for working capital from any outside agency.

18. Mine Closure Expenses

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

Provided that,

- a) the amount deposited in the Escrow account as per the Mining Plan prior to the Date of Commercial Operation of the integrated mine(s) shall be indicated separately and shall be recovered over the useful life of the integrated mine(s) in the form of annuity linked to the borrowing rate;

- b) the amount deposited in the Escrow account as per the Mining Plan or any expenditure incurred towards mine closure shall be excluded from the capital cost for computing input price;
 - c) where the expenditure incurred towards mine closure falls short of or is in excess of the reimbursement received from the Escrow account during the tariff period 2024-29, the short fall or excess shall be carried forward to the subsequent years for adjustments.
- (2) The amount towards mine closure shall be deposited in the Escrow account as per the Mining Plan and shall be recovered as part of input price irrespective of the expenditure incurred towards mine closure during any of the years of the tariff period.
- (3) Where mine closure is within the scope of Mine Developer and Operator engaged by the Allottee Company and mine closure expenses are part of the Mining Charge of Mine Developer and Operator, the mine closure expenses shall be met out of the Mining Charge and no mine closure expenses shall be admissible to the Allottee Company separately:

Provided that,

- a) the amount deposited in the Escrow account by the Mine Developer and Operator or by the Allottee Company and any amount received from the Escrow Account against expenditure incurred towards mine closure shall not be considered for computing input price; and
 - b) the difference between the borrowing cost, arrived at by considering the weighted average rate of interest calculated on the basis of actual loan portfolio in accordance with the methodology specified in these Regulations and the amount deposited in Escrow account and the interest received from Escrow account in a year shall be adjusted in the input price of coal of the respective year, as part of mine closure expenses, on case to case basis;
- (4) Where the mine closure is within the scope of Mine Developer and Operator engaged by the Allottee Company only for a part of useful life of the integrated mine(s) and the Allottee Company undertakes the mine closure for the balance useful life, the treatment of mine closure during the period undertaken by the Allottee Company shall be in accordance with Regulation 18(1) of these Regulations and mine closure during the period undertaken by the Mine Developer and Operator shall be in accordance with Regulation 18 (3) of these Regulations:

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

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

19. Determination of Input Price

- (1) The input price of coal shall be determined as under:

Input Price = [ROM Cost + Additional Charges]

- (2) The credit arising on account of adjustment due to shortfall in overburden removal, GCV Adjustment and Non-tariff Income, if any, shall be dealt separately in the manner specified in these regulations.
- (3) Statutory Charges and taxes, as applicable, shall be allowed.

20. Recovery of Input Charges

- (1) The input charges of coal shall be recovered as under:

Input Charges = [Input Price x Quantity of coal supplied] + Statutory Charges, as applicable;

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

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

- (2) The Generating Company shall work out the comparative energy charge rate based on the input price of coal and notified price of Coal India Limited for the commensurate grade of coal for every month from the Date of Commercial Operation of integrated mine(s) and share the same with beneficiaries.

21. Adjustment on account of Overburden Removal (OB Adjustment)

- (1) The Allottee Company shall remove overburden as specified in the Mining Plan.

- (2) In case of shortfall in overburden removal during a year, the Allottee Company shall be allowed to adjust such shortfall against excess of overburden removal, if any, during subsequent three years.
- (3) In case of excess of overburden removal during a year, the Allottee Company shall be allowed to carryforward such excess for adjustment against the shortfall, if any, during subsequent three years.
- (4) Where the shortfall in overburden removal of any year is not made good by the Allottee Company in accordance with Regulation 21(2) of these Regulations, the adjustment on account of shortfall of overburden removal(OB Adjustment) for that year shall be worked out as under:

$$\text{OB Adjustment} = [\text{Factor of adjustment for shortfall of overburden removal during the year}] \times [\text{Mining Charge during the year} + \text{Operation and Maintenance expenses during the year}]$$

Where,

- i) Factor of adjustment for shortfall of overburden removal during the year =

$$\frac{[(\text{Actual quantity of coal extracted during the year} \times \text{Annual Stripping Ratio as per Mining Plan}) - (\text{Actual quantity of overburden removed during the year} / \text{Annual Stripping Ratio as per Mining Plan})]}{(\text{Annual Target Quantity})};$$
 - ii) Annual Stripping ratio is the ratio of volume of overburden to be removed for one unit of coal as specified in the Mining Plan.
 - iii) Mining Charge is the charge per tonne of coal paid by the Allottee Company to the Mine Developer and Operator engaged by the Allottee Company for mining, wherever applicable.
 - iv) Mining Charge and Operation & Maintenance expenses shall be in terms of Rupees per tonne corresponding to the Annual Target Quantity.
- (5) The provisions of these Regulations regarding adjustment on account of shortfall of overburden removal shall not be applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015.

22. Adjustment on account of shortfall in GCV (GCV Adjustment)

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

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

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

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

Where,

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

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

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

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

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

Where,

i) Annual Extraction Cost is the cost of extraction of coal as computed in accordance with Regulation 13 of these regulations;

ii) Mining Charge is the charge per tonne of coal paid by the Allottee Company to the Mine Developer and Operator engaged by the Allottee Company for mining, wherever applicable; and

iii) Declared GCV of coal shall be the average GCV as per the Mining Plan or as approved by the Coal Controller, Ministry of Coal, Government of India, whichever is higher.

23. Adjustment on account of Non-tariff income (NTI Adjustment)

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

NTI Adjustment = (2/3 of total Non-tariff income during the year)/(Actual quantity of coal extracted during the year).

Provided that in case the actual extraction is less than ATQ, no NTI adjustment shall be made till the total cost of extraction is recovered.

- (2) The adjustment on account of non-tariff income worked out in accordance with this Regulations shall not be applicable in case of the integrated mine(s) allocated through auction route under Coal Mines (Special Provisions) Act, 2015.

24. Credit Adjustment Note

- (1) The credit arising on account of Over Burden Adjustment, GCV Adjustment and NTI Adjustment shall be dealt through Credit Adjustment Note for any year.
- (2) The Credit Adjustment Note shall be issued in favour of the specified end use Generating stations on account of Over Burden Adjustment, GCV Adjustment or NTI Adjustment, as the case may be, for that year as under:
 - (i) Over Burden Adjustment for the year X Quantity of coal supplied in that year;
 - (ii) GCV Adjustment for the year X Quantity of coal supplied in that year; and
 - (iii) NTI Adjustment in the year X Quantity of coal supplied in that year.
- (3) The amount in Credit Adjustment Note shall be adjusted against the charges of coal supplied after the date of issue of Credit Adjustment Note on monthly basis which shall be reconciled at the end of the year. The Allottee Company shall prepare an annual reconciliation statement of such adjustment and furnish the same to all the end use plants and also publish the same on its website.

25. Quality Measurement

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

26. Rebate

- 1) For payment of bills of the Allottee Company through Letter of Credit (LC) on presentation or through NEFT/RTGS within a period of 5 working days of the presentation of bills by the Allottee company, a rebate of 1.5% shall be allowed. Where payments are made on any day after five (5) working days and within a period of thirty (30) days of presentation of bills by the Allottee Company, a rebate of 1% shall be allowed:

Provided that in case a different Rebate mechanism is provided in the FSA, then that shall prevail notwithstanding anything mentioned in this Regulations.

27. Late payment surcharge

- 1) In case the payment of any bill for charges payable under these regulations is delayed by a Generating Company or long-term customers as the case may be, beyond a period of 45 days from the date of presentation of bills, a late payment surcharge at the rate of 1.50% per month shall be levied by the Allottee Company.
- 2) Unless otherwise agreed by the parties, the charges payable by Generating Company or long-term customer shall be first adjusted towards late payment surcharge on the outstanding charges and thereafter, towards monthly charges billed by the Allottee Company starting from the longest overdue bill:

Provided that in case a different Late Payment Surcharge mechanism is provided in the FSA, then that shall prevail notwithstanding anything mentioned in this Regulations.

28. Deviation from ceiling tariff

- 1) The Input Price determined in these regulations shall be a ceiling price. The Allottee Company and the Generating Company or the long-term customer, as the case may be, may mutually agree to charge a lower Price. Where a Allottee Company and its beneficiaries have mutually agreed to charge lower Price, it shall not be revised upwards at the time of truing up based on the capital cost and additional capital expenditures in accordance with these Regulations:

Provided that where the trued-up price is lower than the ceiling Price, the Allottee Company shall charge such trued-up Price only:

Provided further that the difference between the agreed Price and the trued-up Price shall be settled between the parties in accordance with Regulation 9 of these Regulations.

- 2) The deviation from the ceiling Price specified by the Commission shall come into effect from the date agreed to by the Allottee Company and the beneficiaries.

CHAPTER 3

MISCELLANEOUS

29. Power to give directions.

The Commission may from time to time issue such directions and orders as considered appropriate for implementation of these Regulations.

30. Power to relax.

The Commission, by a special-order recording reason in writing, may relax any of the provisions of these Regulations Suo Motu or based on an application made before the Commission by an interested person.

31. Power to amend.

The Commission may from time to time add, vary, alter, suspend, modify, amend, or repeal any provisions of these Regulations recording the reasons in writings.

32. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by an order, make such provisions, not inconsistent with the provisions of the Act or provisions of other Regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations.

By Order of the Commission

**(DR. PRIYABRATA PATNAIK)
SECRETARY**

Appendix A

| Depreciation Schedule for integrated mine | | |
|--|--|--|
| Sr No | Asset Particulars | Life in Years |
| 1 | Land Freehold@ | 999 |
| 2 | Land Leasehold | &&& |
| 3 | Temporary erections | 1 |
| 4 | HEMM\$ | 8 |
| 5 | Roads, bridges, culverts, helipads | 25 |
| 6 | Main Plant Buildings | 30 |
| 7 | Machinery other than HEMM | 15 |
| 8 | Water Supply, Drainage and sewerage | 15 |
| 9 | Furniture and Fixtures | 15 |
| 10 | Office equipment/s other than computers | 15 |
| 11 | Hospital equipment(s) | 15 |
| 12 | EDP, WP machines, SATCOM & communication equipment | 15 |
| 13 | Electrical installations | 15 |
| 14 | Self propelled vehicles | 10 |
| 15 | Computers, Software | 6.33 |
| 16 | Laboratory & workshop equipment | 15 |
| 17 | Mine Development Expenses and Evaluation and exploration # | 20 or life of mine, whichever is lower |
| 18 | Evaluation and Exploration# | 20 or life of mine, whichever is lower |
| 19 | Others not covered above | 15 |

| | |
|------|---|
| Note | Salvage Value shall be other than 5% for following assets – a. IT Equipment, software Zero (0). b. Zero or as agreed with state Government in case of land. c. For specialized mining equipment as specified by Ministry of Corporate affairs. d. Mine Development expenses, Evaluation and Exploration Zero (0) |
| @ | Petitioner to submit if the Freehold Land is attached with any conditions for return. If yes to submit the conditions and period after which the land is to be returned. In such case the land shall be depreciable based on such details. |
| &&& | To be filled by petitioner, least of lease agreement/mine life/right to use period |
| \$ | List of individual HEMM with cost of each HEMM be provided separately |
| # | In generic sense Mine Development Expenditure is the expenditure incurred to bring the mine in usable condition after ensuring the economic viability and decision is taken by Mine Owner to develop the mine. While filling under this head details to the extent feasible are to be given separately. Evaluation and exploration expenditure is generally the expenditure incurred associated with finding the mineral by carrying out topographical, geological, geochemical and geophysical studies, exploratory drilling, trenching, sampling, expenditure for activities in relation to evaluation of technical feasibility and commercial viability, acquisition of rights to explore etc. While filling under this head details to the extent feasible are to be given separately |