<u>Comments on draft OERC Tariff Regulations, 2020</u>

- At the outset, we would like to place on record the commendable job being done by the Hon'ble Commission to bring out Tariff Regulations for the next control period in a progressive, clean and structured manner.
- Investment is undertaken by the Developer after evaluation of the risk perception taking in to account the regulatory framework prevailing at the given point in time. The National Electricity Plan notified by the Government of India in terms of Section 3 of Electricity Act, 2003 as well as the Tariff Policy as amended from time to time mandate regulatory certainty. It is therefore a necessity to ensure that the Tariff Regulations, both financial and operational norms, are not altered frequently adversely affecting the investor sentiment.
- To some extent, the investors have adjusted to the changes brought in by the Commission to tighten the operational norms. Power Sector projects are capital intensive and investments are made only after ascertaining the revenue stream from the project over the useful life of the asset. Even lenders need comfort in terms of certainty in servicing the debt availed by the investor for the project. In such a scenario, any proposal to revise financial norms that result in less return to the investor will send a wrong signal and would be detrimental for the investment sentiment in the Country. Such drastic changes will also increase risk perception and would ultimately lead to increase in interest rates and the consumer tariff.
- Therefore, it is not advisable to i) frequently change regulations especially the financial norms; ii) even if such changes are warranted, they need to be adopted for new projects/ investments only.

Sr. No.	**Clause No. as per Draft Regulation**	**OERC Terms and Conditions of Tariff Regulations 2014**	**Draft OERC Terms and Conditions of Tariff Regulations 2020**	**Comments**
1	6- Tariff Petition	The existing generation plants of OHPC and OPGC may file an application **each year** for truing up of its generating stations of the previous year(s), with respect to the capital expenditure including additional capital expenditure incurred up to last day of the previous year(s) and determination of revenue gap/surplus for the ensuing year, within the time limit as specified by the Commission. Provided that the applicant shall submit to the Commission, information in such form as may be prescribed by the Commission, together with the Audited Accounts, extracts of books of account and such other details as the Commission may	Notwithstanding anything contained above the existing generation plants of OHPC and OPGC may make an application as per the Format prescribed by the Commission for determination of tariff as per annual schedule, by November 30th of every year for determination of tariff in respect of the units of the generating station completed or projected to be completed within six months from the date of application.	The process of yearly truing up as per OERC Regulations may be done away with for generating companies and truing up may be carried out every five years in line with CERC.

Sr. No.	Clause No. as per Draft Regulation	OERC Terms and Conditions of Tariff Regulations 2014	Draft OERC Terms and Conditions of Tariff Regulations 2020	Comments
		require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges.		
3	19-Return on Equity	4.6 Return on Equity shall be computed @16% of the equity amount	19 (2) Return on equity shall be computed at the base rate of 15% for all generating stations;	There should be Regulatory Certainty for investments made in the State of Odisha. ROE rate reduction of 1% will send a negative signal to the investors. Even if the Commission desires to reduce ROE then it should do so only for new projects which are commissioned after 1.4.2020. Return on Equity @ 16% should be retained for exisiting generation projects
4	24 1 (d) Operation and Maintenance Expenses	The water charges as paid by the thermal generating stations shall be allowed separately based on the actual consumption;	The water charges as paid by the thermal generating stations shall be allowed separately based on the actual consumption	CERC as per Tariff Regulations 2019 allows additionally Security Expenses and Capital Spares in addition to Water Charges and Normative O&M expenses. Similar additional O&M expenses may be allowed in OERC Tariff Regulations 2020
5	29 Norms of Operation	5.3 c (iii) (b) The Gross Station Heat Rate for all coal based thermal generating stations achieving COD on or after 01.04.2014, is to be calculated based on the following formula: = 1.045 X Design Heat Rate (kCal/kWh)	© Gross Station Heat Rate (iii) The Gross Station Heat Rate for all coal based thermal generating stations achieving COD on or after 01.04.2014, is to be calculated based on the following formula: = 1.045 X Design Heat Rate (kCal/kWh)	CERC vide its Tariff Regulations, 2019 has increased the Gross Station heat Rate to 1.05 times of Design Heat Rate. Earlier it was 1.045 times of Design Heat Rate in 2014 Tariff Regulations. The same has been done based on recommendations of Central Electricity Authority (CEA) under section 73 (n) of Electricity Act 2003 and considering actual data for the

Sr. No.	Clause No. as per Draft Regulation	OERC Terms and Conditions of Tariff Regulations 2014	Draft OERC Terms and Conditions of Tariff Regulations 2020	Comments
				past 5 years. Accordingly it is proposed that Station Heat Rate be stipulated in OERC Regulations 2020 as Gross Station Heat Rate for all Coal based Thermal generation stations achieving COD on or after 1.4. 2014 = 1.05 X Design Heat Rate
6	25 Non Tariff Income	-	1) The amount of Non-Tariff Income of the generating Company as approved by the Commission shall be deducted while determining its Annual Fixed Charge: Provided that the Generating Company shall submit full details of its forecast of Non-Tariff Income to the Commission in such form as may be stipulated by the Commission. (2) The Non-Tariff Income shall include: (a) … (b) … (c) Income from investments; (d) …; (e) Interest income on advances to suppliers/contractors;	The concept of consideration of Non-Tariff Income and its reduction from Annual Fixed Charges should be avoided because all expenses to a regulated entity are given on fixed normative basis and regulated return is assured. Most of the non-tariff incomes are earned through investment of such ROE for eg Non-Tariff Income from investments, Non-Tariff Income on Advances to suppliers/contractors. If Non-Tariff Incomes are reduced from Annual Fixed Charges then the regulated entity will fail in achieving the stipulated regulated return. Accordingly the concept of Non-Tariff Income should be done away with in accordance with CERC Tariff Regulations.
7	26 Computation and Payment of Capacity	Incentive to a generating station or unit thereof shall be payable at a flat rate of 50 paise/kWh for ex-bus scheduled energy corresponding to scheduled generation in excess of ex-bus energy	In addition to the capacity charge, an incentive shall be payable to a generating station or unit thereof @ fifty (50) paise/ kWh for ex-bus scheduled energy during Peak Hours and @ forty	Framework for Peak/off peak tariff introduced by CERC in its Tariff Regulations for 2019-24, at the notification of Regulations was slated

Sr. No.	Clause No. as per Draft Regulation	OERC Terms and Conditions of Tariff Regulations 2014	Draft OERC Terms and Conditions of Tariff Regulations 2020	Comments
	Charge and Energy Charge for Thermal Generating Stations	corresponding to Normative Annual Plant Load Factor (NAPLF) as specified in Regulation.	(40) paise/ kWh for ex-bus scheduled energy during Off- Peak Hours corresponding to scheduled generation in excess of ex-bus energy corresponding to Normative Annual Plant Load Factor (NAPLF) achieved on a cumulative basis within each Season (High Demand Season or Low Demand Season, as the case may be), as specified in regulation	to be implemented from 1.04.2020, but considering the operation difficulties, the implementation of the same has been deferred and has been referred to Expert Committee for review. Hence, it is requested that Hon'ble OERC may continue existing tariff framework. It is also submitted considering the Incentive may be given to generators for the parameters which are within control of generators; viz., Availability not the PLF. In case if the same is not permissible then incentive can be payable at a flat rate of 50 paise/kWh as stipulated in OERC Tariff Regulations 2014
8	11 Additional Capitalization	-	11 (g) Provided that in case of any replacement of the 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	In case of replacement of assets, the additional capitalization should not be worked by adjusting gross fixed assets and cumulative depreciation. By doing so the Generator who has replaced the asset is not able to earn the stipulated return inspite of no fault of its and has to pay from its own pocket – loan amount, interest etc for the asset which has been replaced.
9	11 Additional Capitalization	-		A provision may be added to allow the additional capitalization for Sustainability and efficient operation of Power plant may be allowed to be incurred, based on prudence check of

Sr. No.	Clause No. as per Draft Regulation	OERC Terms and Conditions of Tariff Regulations 2014	Draft OERC Terms and Conditions of Tariff Regulations 2020	Comments
				the Commission. *"11 (6) The Capital Expenditure incurred after the Cut off date and/or beyond the Original scope of Work may be admitted by the Commission, subject to prudence check provided the same is incurred in maintaining operations level efficiency/sustainability of the plant"*
10.	Late Payment Surcharge	In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary beyond a period of 30 days from the date of receipt of the bill, a late payment surcharge at the rate of 1.25% per month shall be levied by the generating company.	In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary beyond a period of forty (40) days from the date of receipt of the bill, a late payment surcharge at the rate of 1.25% per month shall be levied by the generating company	In case of CERC Tariff Regulations 2019, LPS is applicable **@ 1.5% per month** for delay in payment by beneficiary beyond a period of forty (45) days. Similar provision may be retained in OERC Regulations in compliance to National Tariff Policy and section 61 (a) of Electricity Act, 2003 and because of the fact that 1.25% per month rate is too low. Low LPS rates may not act as a deterrent for Late Payment.

A hearing for public consultation/stake holder consultation in line with one conducted by CERC before notification of any regulation may be conducted to give opportunity to various stakeholders to present their views before the Commission.