

## Case-4: Flexibility in utilization of coal in IPP Stations

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been scheduled at the quoted rate for a period of [1 (ONE) month]18or the balance period of contract, whichever is higher.

- iii. Termination Payment shall be due and payable within 15 (fifteen) days of a demand being made with the necessary particulars, and in the event of any delay, the defaulting Party shall pay interest at a rate equal to 3% (three per cent) above the Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days.
- iv. Upon termination of this arrangement, the Performance Security of the Seller shall be forfeited. Buyer shall inform the Coal Company about termination and subsequently Coal Company shall cease supply of coal to the Seller.

### **14.4. Buyer event of default**

- i. Default in payment to the Seller
- ii. Opening of LC of requisite amount within 30 days from the due date.
- iii. Default in payment of coal cost to the coal company (if any)

### **14.5. Treatment in case of Buyer event of default**

Upon Termination on account of a Buyer Default, the Buyer shall pay to the Seller, by way of Termination Payment, an amount equal to 10% of the energy that would have been scheduled at the quoted rate for a period of [1 (ONE) month]18or the balance period of contract, whichever is higher.

## **15. FORCE MAJEURE**

15.1. Force Majeure Events shall mean the occurrence of any of the following events:-

- i. Any restriction imposed by RLDC/SLDC in scheduling of power due to breakdown of Transmission/Grid constraint shall be treated as Force Majeure without any liability on either side.
- ii. Any of the events or circumstances, or combination of events and circumstances such as act of God, exceptionally adverse weather conditions, lightning, flood, cyclone, earthquake, volcanic eruption, fire or landslide or acts of terrorism causing disruption of the system.
- iii. The contracted power will be treated as deemed reduced for the period of transmission constraint. The non/part availability of transmission corridor should be certified by the concerned RLDC/SLDC.

15.2. During the period of Force Majeure, no coal transfer shall be made to the Seller.

## **16. DISPUTE RESOLUTION**

- i. The inter-ministerial sub group constituted under the similar scheme of flexible utilization of coal amongst State/Central Gencos, would also look into various operational issues arising during the implementation of this scheme.
- ii. Commercial dispute, if any would be decided by appropriate commission and only buyer and seller shall be party to that. CEA, POSOCO, Ministry of Coal, Railways shall not be made party to any bilateral dispute between buyer and seller. Issues regard coal and transportation charges would be between parties whom it is billed.
- iii. Any other disputes arising out of this arrangement shall be dealt as per clause 16 of this document.

### 17. ARBITRATION

- i. The Buyer and the Seller shall make every effort to resolve amicably by direct informal negotiations, any disagreement or disputes, arising between them under or in connection with the Contract.
- ii. If, after Thirty (30) days from the commencement of such direct informal negotiations, the Buyer and the Seller have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanism specified in Clauses 17 (iii) and 17 (iv).
- iii. In the case of a dispute or difference arising between the Buyer and the Seller relating to any matter arising out of or connected with this Contract, such dispute or difference shall be referred to the award of two Arbitrators having relevant technical background, one Arbitrator to be nominated by the Buyer and the other to be nominated by the Seller or in case of the said Arbitrators not agreeing, then to the award of an Umpire to be appointed by the Arbitrators in writing before proceeding with the reference, and in case the Arbitrators cannot agree to the Umpire, he may be nominated by the Secretary, Indian Council of Arbitration, New Delhi. The award of the Arbitrators, and in the event of their not agreeing, of the Umpire appointed by them or by the Secretary, Indian Council of Arbitration, New Delhi shall be final and binding on the parties.
- iv. The Arbitration & Conciliation Act 1996, the rules there under and any statutory modification or re-enactments thereof, shall apply to the arbitration proceedings.
- v. The venue of the arbitration shall be *Delhi*.
- vi. During the arbitration proceedings the Seller shall continue to work under the Contract unless otherwise directed in writing by the Buyer or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrator or the umpire, as the case may be, is obtained.
- vii. The Buyer may terminate this contract, by giving a written notice of termination of minimum 30 days, to the Seller, if the Seller fails to comply with any decision reached consequent upon arbitration proceedings pursuant to Clause 17 (iv).

### 18. AMENDMENTS

Amendments in the scheme may be made, if any, based on the operational experience gained during its implementation.





सं.5/3/2015-ओएम  
भारत सरकार  
विद्युत मंत्रालय  
श्रम शक्ति भवन, रफी मार्ग, नई दिल्ली-110001  
टेलीफैक्स संख्या 23719229

dated 15<sup>th</sup> June, 2018

To,

1. Chairperson, Central Electricity Authority, New Delhi
2. Principal Secretary/Secretary (Energy) of State Govts./UTs
3. Chairman, State Power Utilities/SEBs
4. Chairman, CPSUs under Ministry of Power.
5. Member Secretary, Regional Power Committees

**Subject:- Flexibility in utilization of domestic coal and other measures for reducing the cost of power generation – reg.**

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Sir/Madam,

In continuation to this Ministry's letter of even no. dated 10/06/2016 and 28/02/2017, the methodology for use of transferred coal in Independent Power Producers (IPPs) has been amended as per the decision taken during the meeting taken by Secretary (Power) on 28/05/2018 with the representatives of State Governments, IPPs, CEA, Ministry of Coal, CIL, etc. The amendment in the methodology for use of coal by state in Private Generating Stations (IPPs) under Case – 4 "Flexibility in Utilization of Coal in IPPs stations" was also discussed in CEA under the Chairmanship of Member (Planning), CEA with the stakeholders on 05/06/2018. The minutes of this meeting was circulated by CEA separately.

2. The amendment in methodology for use of coal by state in Private Generating Stations (IPPs) under Case – 4 "Flexibility in Utilization of Coal in IPPs stations" is enclosed. All the stakeholders are requested to take necessary action as per the methodology.
3. This issues with the approval of Hon'ble MoS (I/C) for Power and NRE.

Yours faithfully,

Encl: As above.

*Binod Kumar*  
(Binod Kumar)  
Section Officer (OM)

Copy to:

1. CEO, NITI Aayog, New Delhi.
2. Secretary, Department of Economic Affairs, North Block, New Delhi
3. Secretary, Ministry of Home Affairs, North Block, New Delhi
4. Secretary, Ministry of Coal, Shastri Bhawan, New Delhi
5. Secretary, Ministry of Railways, Rail Bhawan, New Delhi
6. Secretary, Department of Atomic Energy, Anushakti Bhawan, Chatrapati Shivaji Maharaj Marg, Mumbai-400001
7. Secretary, CERC, Chanderlok Building, 36, Janpath, New Delhi
8. Secretary, State Electricity Regulatory Commissions
9. Director General, Association of Power Producers, 501-502, 5<sup>th</sup> Floor, Mohan Dev Building 13, Tolstoy Marg, New Delhi-110001



| Sr. No. | Existing Clause in MoP's Methodology for use of Coal by State in IPPs dated 20.02.2017  | Revised Clause   |
|---------|---|--|
| 1.      | <p>Clause 1 (iv) - General Principles</p> <p>“A reference will be made by the Buyer to the Ministry of Railways regarding operational feasibility of the rail transportation of coal to the IPPs (shortlisted after opening of the RFQ bids). The details of the quantum of coal to be moved and the time frame during which this transportation is required would be conveyed to Traffic Transportation Directorate of Railway Board (Ministry of Railways) by the concerned State notified agency. Based on the operational considerations, Ministry of Railways would convey their consent or otherwise within 7 days of the receipt of the reference. <b>The IPP where the transfer of coal is not feasible as conveyed by the Railways, would not be eligible to participate in RFP stage.</b> The tariff will be charged by the Railways as per the prevalent tariff rates of the Railways. The Bidder may also assess the transportation charges from the Freight Operations Information System of the Railways (<a href="http://www.fois.indianrail.gov.in">www.fois.indianrail.gov.in</a>).”</p> | <p><b>Clause 1 (iv)</b> - General Principles may be modified and replaced as under:</p> <p>“A reference will be made by the Buyer to the Ministry of Railways regarding operational feasibility of the rail transportation of coal to the IPPs (shortlisted after opening of the RFQ bids). The details of the quantum of coal to be moved and the time frame during which this transportation is required would be conveyed to Traffic Transportation Directorate of Railway Board (Ministry of Railways) by the concerned State notified agency. Based on the operational considerations, Ministry of Railways would convey their consent or otherwise within 7 days of the receipt of the reference. The tariff will be charged by the Railways as per the prevalent tariff rates of the Railways. The Bidder may also assess the transportation charges from the Freight Operations Information System of the Railways (<a href="http://www.fois.indianrail.gov.in">www.fois.indianrail.gov.in</a>).</p> <p><b>Where the transfer of coal is not feasible as conveyed by the Railways, the bidders / IPPs may choose any other suitable mode of transportation of coal. Provided that the bidders/ IPPs who are not willing to choose any other suitable mode of transportation, where the transfer of coal is not feasible as conveyed by the Railways, such IPPs would not be eligible to participate in RFP stage.</b></p> <p><b>Further, where the transfer of coal is feasible as conveyed by the Railways but during operationalisation, if there are problems in transportation of coal by Railways and the materialisation is less than the quantity to be transferred, the bidder/IPP may choose any other suitable mode of transportation of coal without affecting the bid tariff of power.</b></p> |
| 2.      | <p>Clause 1 - General Principles</p>  | <p>Following provision may be added as <b>Clause 1 (ix)</b></p> <p>“The IPPs selected through Competitive Bidding under Case-4 shall be “treated at par with State Utilities” for use of coal as the coal to be transferred is the linkage coal of the State Utility and the power generated using</p>   |



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|    |   | this coal by these IPPs shall be purchased by State Utilities.”  |
| 3. | Clause 3.1 (ii) Duration of power required: Months*<br>(Minimum duration: One Month, Maximum Duration: One year, <b>which shall be reviewed based on experience gained.</b> )   | Clause 3.1 (ii) Duration of power required: Months*<br>(Minimum duration: One Month, Maximum Duration: One year, <b>which may be mutually extended for an additional period upto one year so as to optimize the benefits under the methodology. This shall be further reviewed based on the experience gained</b> )  |
| 4. | Clause 4.1.3 Bid Security (Earnest Money Deposit)<br>“The Bidders are required to submit Bid Security for the capacity which they wish to offer @ <b>Rs. 30,000/-</b> per MW on RTC (30 days, 24 hours) basis and same shall be reduced on pro-rata basis in case bids are invited on hourly basis, in the form of Bank Guarantee / e-Bank Guarantee issued by any Nationalized / Scheduled Bank or Electronically Transfer through payment gateway provided by in the portal.<br>For Example: For a requirement of 1 MW, 45 days, 4 hours, the EMD shall be <b>Rs. 30,000 x (45 days/30 days) x (4 hours / 24 hours) = Rs. 7,500/-</b> ” | <b>Clause 4.1.3 (i) Bid Security (Earnest Money Deposit)</b><br>“The Bidders are required to submit Bid Security for the capacity which they wish to offer @ <b>Rs. 15,000/-</b> per MW on RTC (30 days, 24 hours) basis and same shall be reduced on pro-rata basis in case bids are invited on hourly basis, in the form of Bank Guarantee / e-Bank Guarantee issued by any Nationalized / Scheduled Bank or Electronically Transfer through payment gateway provided by in the portal.<br>For Example: For a requirement of 1 MW, 45 days, 4 hours, the EMD shall be <b>Rs. 15,000 x (45 days / 30 days) x (4 hours / 24 hours) = Rs. 3,750/-</b> ” |
| 5. | Clause 5 – Timelines for Bidding Process  | <b>Clause 5 - Timelines for Bidding Process</b><br>“Provided, the above mentioned timelines are indicative timelines. The State Utilities may modify / alter the timelines while inviting tender depending upon their requirements.”   |
| 6. | Clause 6 (iii) – Performance Security<br>“The Successful Bidder(s) may be required to furnish Bank Guarantee (BG) within 10 days from the date of selection of Successful Bidder(s) for an amount calculated at <b>Rs. 2 lakh</b> per MW per month (30 days, 24 hours) of contract period or part thereof. The PG for the procurement of power on hourly basis shall be calculated on pro-rata basis as per the example given above for calculating EMD.”   | <b>Clause 6 (iii) – Performance Security</b><br>“The Successful Bidder(s) may be required to furnish Bank Guarantee (BG) within 10 days from the date of selection of Successful Bidder(s) for an amount calculated at <b>Rs. 1 lakh</b> per MW per month (30 days, 24 hours) of contract period or part thereof. The PG for the procurement of power on hourly basis shall be calculated on pro-rata basis as per the example given above for calculating EMD.”   |
| 7. | Clause 8.1 (x) – Seller (IPP’s) Responsibility<br>“ <b>Any increase in freight charges on account of transfer of coal or in transmission charges shall be borne by the Seller during the contract period.</b> ”   | <b>Clause 8.1 (x) –deleted</b>   |

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| 8. | <p>Clause 8.2 - Buyer (State's) Responsibility</p>   | <p>Following clause is added as <b>Clause 8.2 (x) – Buyer (State's) Responsibility:-</b><br/> <b>“Any increase in railway freight charges on account of transfer of coal or in transmission charges shall be borne by the Buyer during the contract period.”</b></p>  |
| 9. | <p>Clause 13.2 - Reconciliation of Coal Quantity<br/> “(i) The coal quantity shall be reconciled every <b>quarter</b> with respect to coal consumed for generation and supply of electricity to the Buyer corresponding to quality and quantity of coal at loading end. Normative transit losses as per prevailing CERC Regulations shall be applicable.<br/> (ii) Any excess / shortfall quantity of coal transferred to the Seller shall be adjusted in the next <b>quarter</b>. The quality of coal at loading end shall be as vetted by Third Party sampler.<br/> .....”</p> | <p><b>Clause 13.2 - Reconciliation of Coal Quantity</b><br/> “(i) The coal quantity shall be reconciled every <b>month</b> with respect to coal consumed for generation and supply of electricity to the Buyer corresponding to quality and quantity of coal at loading end. Normative transit losses as per prevailing CERC Regulations shall be applicable.<br/> (ii) Any excess / shortfall quantity of coal transferred to the Seller shall be adjusted in the next <b>month</b>. The quality of coal at loading end shall be as vetted by Third Party sampler. The result of Third Party sampler shall be used for issuance of debit/credit notes.<br/> .....”</p> |





सं. 5/3/2014-ओएम  
भारत सरकार  
Government of India  
विद्युत् मंत्रालय  
Ministry of Power  
श्रम शक्ति भवन, रफी मार्ग, नयी दिल्ली-110 001  
Shram Shakti Bhawan, Rafi Marg, New Delhi-110 001

dated 25<sup>th</sup> October, 2018

To

The Chairman  
Central Electricity Authority  
Sewa Bhawan, R. K. Puram,  
New Delhi-110066

**Subject:- Amendment in the methodology for use of coal by State in Private Generating Stations (IPPs) (Case-4).**

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Sir,

I am directed to refer to CEA's letter no. CEA/Plg/FM/1/37/2018/5447-62 dated 1/10/2018. The following proposal as discussed in the meeting taken by Member (Planning), CEA regarding reconciliation clause (Clause 13) in the Methodology for use of coal by State in Private Generating Stations (IPPs) under "Case 4: Flexibility in utilisation of coal in IPP stations" and forwarded to this Ministry have been approved by Competent Authority as below :

| Original   | Amended Clause  |
|--|---|
| <b>Clause 13.1</b><br>ii. For this evaluation, the GCV of coal to be used will be corresponding to the grade of coal specified by Coal Company and vetted by Third Party sampling for the mine/linkage source. | <b>Amended Clause 13.1</b><br>ii (a). For this evaluation, the GCV of coal to be used will be corresponding to the grade of coal specified by Coal Company and vetted by Third Party sampling for the mine/linkage source.<br>Further, for reconciliation of coal, equilibrated GCV so arrived by third party sampler may be corrected for moisture loss to arrive at GCV at unloading point as per the formula given as under:<br>$GCV_{ARB} = GCV_{ADB} \times (1-TM) / (1 - M_{eq})$ |

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|  | <p>Where : <math>GCV_{ARB}</math> = Gross Calorific value of coal after moisture correction,<br/><math>GCV_{ADB}</math> = Gross Calorific Value at Equilibrated Condition (60% RH and 40° C), TM=Total moisture,<br/><math>M_{eq}</math> =Equilibrated Moisture at 60% RH and 40° C</p> <p>ii (b): Till CERC specifies any norm, a margin of 85-100 kCal/kg in GCV for pit head station and a margin of 105-120 kCal/kg in GCV for non-pit head station may be allowed. In case CERC specifies a norm the same may be used. However, in case respective SERC specifies any norms, the same may be used instead of norms as specified above or CERC norm.</p> |
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2. CEA is requested to issue the above modified methodology at the earliest.

Yours faithfully



(D. Guha)

Under Secretary to Govt. of India

Telefax: 23719229

Email:opmonitor-power@gmail.com

**Copy to:**

Chief Engineer (FM), CEA, Sewa Bhawan, R. K. Puram, New Delhi-110066





सत्यमेव जयते

**No. FU-14/2019-IPC  
Government of India  
Ministry of Power**

Shram Shakti Bhawan, Rafi Marg,  
New Delhi, dated 18.11.2020

To,

1. Chairperson, Central Electricity Authority, New Delhi
2. Principal Secretary/Secretary (Energy) of State Govts./UTs
3. CERC
4. SERCs

**Sub: Amendment in the methodology for use of coal by State in Private Generating Stations (IPPs) (Case-4) - reg.**

Sir/Madam

In continuation to this Ministry's letter no. 5/3/2015-OM dated 20.02.2017 & 15.06.2018 and letter no. 5/3/2014-OM dated 25.10.2018, the methodology for use of coal by state in Private Generating Stations (IPPs) under Case - 4 "Flexibility in Utilization of Coal in IPPs stations" has been amended based on stakeholder consultation done by Central Electricity Authority (CEA), comments sought by Ministry of Power (MoP) from State Govt.s/UTs & Power Associations and the discussions held in different meetings in MoP. Based on these consultation and meetings, following modifications are made:

| Sr no. | Existing provisions   | Amendments approved   |
|--------|---|---|
| I.     | <b>Performance Security (Clause 6):</b><br>Clause 6(i) to Clause 6 (vi) | <b>Clause 6(vii)</b> may be added after Clause 6 (vi) as under:<br>“ <b>Clause 6 (vii):</b> If the reconciliation of coal is pending due to un-availability of results of the samples referred to the referee, the contract may be closed by the Buyer after taking a payment security in the form of additional Bank Guarantee @8% of Performance Security, from the Seller and the Performance Security taken at the time of signing of contract shall be released to the Seller. The Additional Bank Guarantee shall be settled after receiving the results of pending referee samples.” |

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| <p>II.</p>  | <p><b>Buyer's (State) Responsibility (Clause 8.2 (x))</b></p> <p>"Any increase in railway freight charges on account of transfer of coal or in transmission charges shall be borne by the Buyer during the contract period"</p>  | <p>The clause 8.2 (x) may be amended as below:</p> <p>"Any increase/<b>decrease</b> in railway freight charges on account of transfer of coal or in transmission charges shall be borne by the Buyer during the contract period"</p>  |
| <p>III.</p> | <p><b>Coal Quantity Evaluation (Clause 13.1)</b></p> <p><b>Clause 13.1 (ii)(a).</b> For this evaluation, the GCV of coal to be used will be corresponding to the grade of coal specified by Coal company and vetted by Third Party Sampling for the mine/linkage source.</p> <p>Further, for reconciliation of coal, equilibrated GCV so arrived by third party sampler may be corrected for moisture loss to arrive at GCV at unloading point as per the formula given as under:</p> $GCV_{ARB} = GCV_{ADB} \times (1-TM) / (1- M_{eq})$ <p>Where: <math>GCV_{ARB}</math> = Gross Calorific value of coal after moisture correction, <math>GCV_{ADB}</math> = Gross Calorific Value at Equilibrated Condition (60% RH and 40° C), TM=Total moisture, <math>M_{eq}</math> =Equilibrated Moisture at 60% RH and 40° C</p> <p><b>Clause 13.1 (ii)(b):</b> Till CERC specifies any form, a margin of 85-100 kCal/kg in GCV for pit head station and a margin of 105-120 kCal/kg in GCV for non-pit head station may be used. However, in case respective SERC specifies any norms, the same may be used instead of norms as specified above or CERC norm.</p> | <p>Clause 13.1 (ii)(a) &amp; (b) may be read as under:</p> <p><b>Clause 13.1 (ii):</b> For this evaluation, the GCV of coal to be used will be corresponding to the grade of coal specified by Coal company and vetted by Third Party Sampling for the mine/linkage source.</p> |



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| <p>IV.</p> | <p><b>Reconciliation of Coal Quantity (Clause 13.2)</b></p> <p><b>Clause 13.2(ii):</b><br/>Any excess/ shortfall quantity of coal transferred to the Seller shall be adjusted in the next month. The quality of coal at loading end shall be as vetted by Third Party sampler. The result of Third Party sampler shall be used for issuance of debit/credit notes.</p> | <p>Clause 13.2 (ii) may be read as:</p> <p><b>Clause 13.2 (ii) (a):</b><br/>Any excess/ shortfall quantity of coal transferred to the Seller shall be adjusted in the next month. The quality of coal at loading end shall be as vetted by Third Party sampler. The result of Third Party sampler shall be used for issuance of debit/credit notes.</p> <p>Further, for reconciliation of coal, equilibrated GCV so arrived by third party sampler may be corrected for moisture loss to arrive at GCV at unloading point as per the formula given as under:</p> $GCV_{ARB} = GCV_{ADB} \times (1-TM) / (1- M_{eq})$ <p>Where: GCV<sub>ARB</sub> = Gross Calorific value of coal after moisture correction,<br/>GCV<sub>ADB</sub> = Gross Calorific Value at Equilibrated Condition (60% RH and 40° C), TM=Total moisture, M<sub>eq</sub> =Equilibrated Moisture at 60% RH and 40° C</p> <p><b>Clause 13.2 (ii) (b):</b> A margin may be allowed in GCV for storage loss as per CERC norms. However, in case respective SERC specifies any norms, the same may be used.</p> |
|------------|--|---|

2. All the stakeholders are requested to take necessary action as per the methodology.

3. This issues with the approval of **Hon'ble Minister of State (IC) (Power and New & Renewable Energy)**.

Yours faithfully,



(S. Majumdar)

Under Secretary to the Govt. of India

Tele# 2335 6938

Copy to:

- I. Association of Power Producers (APP)
- II. Domestic Coal Based Power Producers Association (DCPPA)
- III. Dhariwal Infrastructure Limited