

No. 23/22/2018-R&R
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 30th May, 2018

To

The Chairperson,
Central Electricity Regulatory Commission,
Chanderlok Building,
Janpath, New Delhi-110001

Subject: Mechanism for Implementation of New Environmental Norms for Thermal Power Plants (TPP) supplying power to distribution licensees under concluded long term and medium term Power Purchase Agreement (PPA).

Sir,

Ministry of Environment, Forest and Climate Change (MoEFCC) has notified the Environment (Protection) Amendment Rules, 2015 on 7th December, 2015 thereby introducing revised emission standards for Thermal Power Plants (TPPs). The revised emission standards are applicable to existing as well as upcoming TPPs. To meet the revised emission standards, the TPPs would have to install or upgrade various emission control systems like Flue-Gas desulfurization (FGD) system, Electro-Static Precipitators (ESP) system etc.

2. As per implementation plan prepared by Central Electricity Authority (CEA), the existing TPPs are required to comply with the new emission standards by the year 2022.

3. Implementation of revised emission standards would face challenges relating to stringent timelines, availability of suppliers and technology, shut down for longer periods, and revenue loss during shutdown. It would also have significant implications on the tariff agreed under the long term and medium term power purchase agreement (PPA) due to additional infrastructure and operational cost on account of large scale installations, renovations & retrofitting of existing plant and machinery to meet revised emission norms.

4. In view of the nature of cost involved in implementation of revised standards of emission and the provisions of Power Purchase Agreement, there is a need to develop the appropriate regulatory framework specifying the mechanism or enabling guidelines for providing regulatory certainty to the TPPs about recovery of such additional costs through tariff. It is important to ensure implementation of the revised standards of emission for TPPs for controlling pollution level in the larger public interest.

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5. After considering all aspects and with due regard to the need for safeguards against environmental hazards, and accordingly to ensure timely implementation of new environment norms, the Central Government has decided that –

5.1 The MoEFCC Notification requiring compliance of Environment (Protection) Amendment Rules, 2015 dated 7th December, 2015 is of the nature of Change in Law event except in following cases:

a) Power Purchase Agreements of such TPPs whose tariff is determined under Section 63 of the Electricity Act, 2003 having bid deadline on or after 7th December, 2015; or

b) TPPs where such requirement of pollutions control system was mandated under the environment clearance of the plant or envisaged otherwise before the notification of amendment rules;

5.2 The additional cost implication due to installation or up-gradation of various emission control systems and its operational cost to meet the new environment norms, after award of bid or signing of PPA as the case may be, shall be considered for being made pass through in tariff by Commission in accordance with the law.

5.3 The respective TPPs may approach the Appropriate Commission for approval of additional capital expenditure and compensation for additional cost on account of this Change in Law event in respect of the Power Purchase Agreement entered under Section 62 or Section 63 of the Electricity Act, 2003.

5.4 For the TPPs that are under the purview of the Central Commission, the Commission shall develop appropriate regulatory mechanism to address the impact on tariff, and certainty in cost recovery on account of additional capital and operational cost, under concluded long term and medium term PPAs for this purpose.

6. The Central Government, in exercise of the power conferred under section 107 of the Electricity Act 2003 issues directions to the Central Electricity Regulatory Commission to implement the above decision of the Government. This direction is being issued to facilitate the smooth implementation of revised emission standards of the Environment (Protection) Amendment Rules, 2015 dated 7th December, 2015 for Thermal Power Plants in the larger public interest.

7. This issues with the approval of Minister of State (IC) for Power and NRE.

Yours faithfully,


(Ghanshyam Prasad)
Chief Engineer
Tel: 2371 0389

Copy to:

- i) Secretary (MoEFCC), Government of India
- ii) Chief Secretaries of all State Governments and Union Territory Administrations
- iii) The Principal Secretary/ Secretary (in charge of energy) of all State Governments and UT Administrations.