



Power Foundation of India

(An autonomous Society under the Ministry of Power, Govt of India)

Dated: 31st July 2024

To,

The Secretary

Central Electricity Regulatory Commission
7th Floor, Tower B,
World Trade Centre, Nauroji Nagar
New Delhi-110029

Subject: Comments / Suggestions on draft CERC Order dated 15/07/2024

Ref: CERC Public Notice dated 15th July, 2024.

Dear Sir,

With reference to above mentioned public notice, Power Foundation of India, a society under the aegis of Ministry of Power (GoI) which is led by Director General Shri Sanjiv Nandan Sahai (Former Secretary in MoP (GoI)), has analysed the CERC Order dated 15/07/2024 in the matter of *Determination of the levellised generic tariff for the first year of the control period under Regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2024*.

It is noted that the said draft Order has been issued under *CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2024* over which CERC lacks its jurisdiction because it provides the tariff determination methodology for those Renewable Energy Projects, which does not qualify as Inter-State projects / Composite scheme, thus not regulated by CERC u/s 79 of the Electricity Act 2003. Hence, such Regulations cannot be issued u/s 61 as a guiding principle for SERCs.

Accordingly, our comments/suggestion on the said order are enclosed herewith as Annexure-I which have also been emailed to secy@cercind.gov.in, advisor-re@cercind.gov.in.

Warm Regards,

encl: Annexure – I

Yours Sincerely

(Praveen Kumar Singh)
Senior Advisor, PFI

POWER FOUNDATION OF INDIA

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Comments/Suggestions from Power Foundation of India (PFI) on Draft determination of the Levellised Generic Tariff under Terms and Conditions for Tariff determination from Renewable Energy Sources Regulations, 2024

- 1) PFI is a Policy Research and Advocacy entity, a registered society under the aegis of the Ministry of Power, Government of India, and supported by twelve leading Central Power Sector Organisations, to undertake evidence-based policy research and facilitate informed decision making by the Regulators, Ministry and stakeholders concerned with the Power Sector. It is led by Director General Shri Sanjiv Nandan Sahai (Former Secretary in Ministry of Power, Government of India).
- 2) Central Electricity Regulatory Commission (CERC) has sought comments / suggestions from various stakeholders on its Order dated 15/07/2024 for *determination of levellised generic tariff for the first year of the control period of various Renewable Energy Projects*. PFI has reviewed and analysed the said draft order and as sought, our comments / suggestions are as follows:

A. Issue of Jurisdiction _ CERC

- a) The Draft Renewable Energy Tariff Order dated 15/07/2024, determining project specific tariffs on a case-to-case basis, for various Renewable Energy technologies, has been issued under *CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources Regulations, 2024)*.
- b) CERC vide its Public Notice dated 17/02/2024 had invited comments on its draft *Terms and Conditions for Tariff determination from Renewable Energy Sources Regulations, 2024*. In response to the said Public Notice, PFI had submitted its comments / suggestions vide email dated 14/03/2024 which has also been uploaded on CERC website. [PFI Comments](#)
- c) Summary of the PFI comments are as follows :
 - i) CERC, in the said draft Regulation, had provided the detailed tariff determination methodology for various Renewable Energy Projects including Small Hydro, Biomass and Urban & Municipal Waste, which would rarely qualify as Inter-State projects / Composite scheme, and thus not regulated by them u/s 79 of the Electricity Act 2003 (Act).
 - ii) For such small sized intra-state projects not under the jurisdiction of the CERC, it is rather SERCs who should prudently determine the Capital Cost, O&M, CUF, etc., depending upon the local and geographical issues pertaining in their respective State.



- iii) No Tariff Orders have been issued by CERC for Small Hydro, Biomass & MSW projects governed by the previous Renewable Energy Sources Regulations. Further, it was noted that the CERC specified cost parameters, such as Capital Cost, CUF, O&M etc., which did not attribute to any scientific studies supported by actual data.
 - iv) CERC had retained CUF till FY 2026-27 at same levels as that in FY 2020-21 both for wind and solar power projects without any scientific study. Various SERCs like that of Maharashtra and Karnataka have significantly increased CUF of Wind and Solar Power Projects from FY 2019-20 to FY 2024-25.
 - v) Hon'ble APTEL in its judgment dated 25/11/2014 in Appeal No. 82 of 2014 had directed a SERC to decide CUF based on supporting data and scientific study. Our own analysis, the results of which were shared with CERC, shows that 2% increase in CUF of Solar Power project i.e., from 21% to 23% decreases levelized Tariff by 9% i.e., from Rs. 4.05/kWh to Rs. 3.70/kWh based on their norms; and similarly, a 2% increase in CUF for Wind projects i.e., from 30% to 32%, decreases levelized Tariff by 6%.
- d) Due to absence of CERC jurisdiction, inadequate contestations of the provisions and norms having no reference to scientific studies, we suggested to revisit the Regulations. Despite the ambiguities and shortcomings, the Regulations were finalised on 12/06/2024 and now draft Order dated 15/07/2024 determining project specific tariffs on a case-to-case basis, for various Renewable Energy technologies, has been issued.**
- e) As anticipated by PFI, the fallout of the CERC Regulations, is getting reflected in the Capital Cost and various Tariff related parameters determined by SERCs for their Intra-State projects.**
- f) For instance, DERC vide its Order dated 9/07/2024 (copy enclosed) has adopted the Capital Cost in toto as submitted by Timarpur Okhla Waste Management Company Ltd. (TOWMCL) seeking approval of Tariff, u/s 62 of the Act for its 17 MW WtE expansion Power Plant Project. The said expansion project is sharing various common infrastructure facilities with the existing 23 MW WtE project of same developer in same premises.
 - g) In the said Order it is noted that DERC has adopted the Capital Cost of Rs. 361.81 Crore as claimed by TOWMCL only because it is lesser than the normative Capital Cost of Rs. 374 Crore as provided by CERC in its Regulations. Even other tariff parameters like Interest on Loan, O&M Expenses, Interest on Working Capital have been adopted as-is by DERC as claimed by



TOWMCL only because it is lesser than CERC norms.

- h) It is also pertinent to note that even though 17 MW WtE expansion project is using common logistics and support infrastructure of existing 23 MW WtE project, operating in same premises by same developer, then also its provisional tariff is quite higher than that of existing 23 MW WtE project.
- i) Section 79 of the Act mandates "*Functions of Central Commission*" that they will regulate tariff of generating companies owned or controlled by the Central Government or those falling under the Inter-State / Composite scheme only.

Section 61 (a) of the Act mandates that the Appropriate Commission shall specify the terms and conditions for determination of tariff, and in doing so, shall be inter-alia guided by the principles specified by CERC.

Hence, CERC should frame Tariff Regulations only for Inter-State or Central Government projects which can be utilized as guiding principle by appropriate Commissions.

In the present case, CERC, in its *Renewable Energy Tariff Regulations 2024*, has provided tariff determination methodology for various Renewable Energy Projects like Small Hydro, Biomass and Municipal Solid Waste, which does not qualify as Inter-State Projects / Composite scheme.

- j) In view of above, it is again suggested to CERC to revisit their *Terms and Conditions for Tariff determination from Renewable Energy Sources Regulations, 2024*.
