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Legal Updates

Central Electricity Regulatory Commission prescribes Methodology for Computing the Escalation Rate for Transportation of Imported Coal/Gas

The Central Electricity Regulatory Commission (“**CERC**”) in accordance with the “Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees” issued by Ministry of Power (“**MOP**”) under Section 63 of the Electricity Act, 2003, has prescribed following methodology for computing the escalation rate for transportation of imported coal/gas (“**Methodology**”):

- The Low Sulphur Fuel Oil (“**LSFO**”) price as published by Argus Media Ltd for the latest one year from September 2018 to August 2019 shall be considered for computing the escalation rate for transportation of imported coal/gas applicable for the period January 2020 to March 2020.
- The data published by Argus Media Ltd. for the period March 2019 to February 2020 shall be considered for computing the escalation rate applicable for the period April 2020 to September 2020.
- From October 2020 onwards, the data published by Clarksons PLC on price of LSFO for the period September 2019 to August 2020 shall be used for computing the escalation rate.
- The percentage variation of LSFO price published by Argus Media Ltd. (average of daily prices) over Singapore 380 cst Bunker Price published by Clarksons PLC (average of weekly prices) for December 2019 shall be considered as the escalation rate applicable for the switchover to LSFO as on 1.1.2020.

The Methodology prescribed by the CERC shall come into effect from 01.01.2020.

Central Electricity Regulatory Commission approves Introduction of two New Bid types at Indian Energy Exchange.

The CERC vide its order dated 14.01.2020 in Petition No. 11/RC/2019 accorded its approval for introduction of two new bid types, namely:

- **Minimum Quantity Bid** – Under such bid type the bidder shall specify minimum quantity for a Block Bid in order to reduce cases of paradoxical rejection of bids for sellers and buyers in Day Ahead Market (“**DAM**”).
- **Profile Block Bid**- Under such bid type the bidder shall specify different quantity across different time block of a Block Bid in order to bring flexibility for various generators to model their bidding pattern and help Distribution Companies (“**Discoms**”) for their demand side management.

On account of the approval accorded by CERC to the introduction of aforementioned bids, the CERC has directed the Indian Energy Exchange Limited to submit their quarterly report on the detailed analysis of the impact of the new bid types on the market behaviour and price discovery for a period of six months from the date of introduction of such bids types in DAM.

The Ministry of Coal (“**MOC**”) in exercise of its power under Article 123(1) of Constitution of India, 1950, has issued Mineral Laws (Amendment) Ordinance, 2020 (“**Amendment Ordinance**”) on 10.01.2020 and same was published in the official gazette on 15.01.2020. The Amendment Ordinance provides for certain amendments in the Mines and Minerals (Development and Regulations) Act, 1957 (“**Mines and Minerals Act**”) and Coal Mines (Special Provisions) Act, 2015 (“**Special Provisions Act**”).

The salient features of the Amendment Ordinance introducing amendments to the Mines and Minerals Act are as follows:

- The Central Government shall have the power to prescribe such conditions, as deemed necessary, for maintaining sustained production of minerals in the country, for commencement and continuation of production by holders of mining leases who have acquired rights, approvals, etc.
- The State Governments shall have the power to take any advance action for auction of the mining lease before the expiry of lease period.
- The successful bidder of the mining lease expiring under provisions of section 8A(5) and section 8A(6) and those selected as per procedure under the Mines and Minerals Act shall be deemed to have acquired all valid rights, approvals, clearances, license, etc., vested with the previous lease holder, for a period of 2 years. The new lease holder shall further be allowed to continue with the mining operations for the period of 2 years, on the land where the mining operations were being carried out by the previous lease holder.
- The holder of non-exclusive reconnaissance permit who carries out prescribed level of exploration in respect of deep seated minerals or such minerals as specified by the Central Government, may apply for grant of prospecting license-cum-mining lease under Section 11 of the Mines and Minerals Act or a mining lease under Section 10B of the Mines and Minerals Act, as per procedure prescribed by the Central Government.

The salient features of the Amendment Ordinance introducing amendments to the Special Provisions Act are as follows:

- The State Government shall have the power to grant reconnaissance permit, prospecting license, mining lease or prospecting licence-cum-mining lease in respect of Schedule 1 coal mine to such company selected through competitive bidding.
- The nominated authority shall have the power to terminate and re-auction the vesting order or allotment order, in compliance of the provisions of the Special Provisions Act.

The Ministry of Information and Broadcasting (“**MIB**”) has invited comments/ suggestions from the general public and stakeholders on the Draft Cable Television Networks (Regulation) Amendment Bill, 2020, (“**Amendment Bill**”) vide which the Cable Television Networks (Regulation) Act, 1995 (“**Cable Act**”) is proposed to be amended.

The salient features of the Amendment Bill are as follows:

Ministry of Coal issues Mineral Laws (Amendment) Ordinance, 2020

Ministry of Information and Broadcasting invites suggestions from general public and stakeholders on Draft Cable Television Networks

**(Regulation)
Amendment Bill,
2020**

- The definition of the term ‘*Authority*’ under the Cable Act to include any other authority prescribed by the Central Government.
 - The definition of the term ‘*Cable Operator*’ under the Cable Act to include a Local Cable Operator (“**LCO**”) or Multi System Operator (“**MSO**”), as the case may be, who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network and fulfils the prescribed eligibility criteria and conditions.
 - Insertion of following definitions under the Cable Act:
 - **Ground-Based channel** - a channel that is transmitted at the headend of the distribution platform operator (“**DPO**”) terrestrially and is not a platform service channel, satellite-based channel or a Doordarshan channel;
 - **Platform Service** - programs transmitted by DPOs exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels; and
 - **Satellite TV channel** - a service that delivers television programming to viewers by relaying it from a communications satellite orbiting the earth directly to the viewer’s location via the use of receiving equipment.
 - Every cable operator shall be obligated to transmit or re-transmit programmes of any channel in an encrypted form through a digital addressable system only.
 - No broadcaster or DPO can transmit or re-transmit or cause to transmit any programme, unless such programme is in conformity with the prescribed programme code.
 - Transmission or re-transmission of any advertisement through cable service which is not in conformity with the prescribed advertisement code shall be subject to penalty under Section 16(2) of the Cable Act.
 - Standard equipment used by a cable operator in his cable television network is to be certified by Broadcasting Engineering Consultants India Limited (“**BECIL**”) or any other certified technical auditor.
 - Fine for contravention of provisions of the Cable Act shall be increased to Rs. 10,000 for the first offence, and Rs. 50,000 for every subsequent offence.
 - Any violation of the programme code or advertisement code, as mentioned under the Cable Act, shall lead to the following:
 - issuing advisory, or censure, or warning;
 - prohibition of transmission of offending programme;
 - apology scroll specifying the date and time; and
 - prohibition of transmission of the channel for a period not exceeding 30 days;
- If there is any violation of programme code or advertisement code repeatedly for more than 5 times, the Central Government may cancel the permission granted to the channel, after giving due opportunity to the channel of being heard.
- The Central Government may prohibit the operation of any DPO in such areas as it may, by notification in the Official Gazette, specify, if it thinks it to be necessary or expedient in public interest.

The general public and stakeholders to provide their comments on the Amendment Bill, if any, on or before 17.02.2020.

**Petroleum and
Natural Gas
Regulatory Board
invites suggestions
for Technical
Assessment of
National Gas Grid**

The Petroleum and Natural Gas Regulatory Board (“**PNGRB**”) has issued a notice on 15.01.2020, inviting views/suggestions from stakeholders viz. Upstream, Midstream and Downstream entities and other stakeholders. The views/suggestions of the stakeholders will accordingly be incorporated in the study conducted by PNGRB and United States Trade Development Agency (“**USTDA**”) pertaining to Technical Assessment of the National Gas Grid in India (“**Technical Assessment**”).

The Technical Assessment will cover the following four aspects:

- Update the gas demand analysis, including anchor consumers, industries, city gas distribution, and emerging demand centres such as CNG and LNG for road transport.
- Update the gas supply analysis, including reviewing LNG imports, domestic supply (conventional and unconventional), potential transnational gas pipeline imports and virtual pipelines.
- Update the conceptual pipeline corridor network, considering identified locations of demand and supply, quantities needed at different locations, routing options, construction and operating costs, and financing models.
- Perform a detailed review of regulatory regimes governing the expansion of natural gas in India, including regulations necessary to promote transparent price discovery through developing market hubs and regulations for promoting the construction of new pipeline and CGD facilities.

The stakeholders to provide their views/suggestions, if any, on or before 31.01.2020.

The Insolvency and Bankruptcy Board of India (“**IBBI**”) in exercise of its powers conferred under Section 196(1)(t) read with Section 240 of the Insolvency and Bankruptcy Code, 2016 (“**IBC, 2016**”) has issued Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Amendment) Regulations, 2020 (“**Amendment Regulations**”) amending the provisions of Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (“**Principle Regulations**”), which came into effect from 16.01.2020.

The salient features of the Amendment Regulations are as follows:

- Concept of Corporate Voluntary Liquidation Account (“**CVLA**”) has been introduced, wherein, the Liquidator shall deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process, along with any income earned thereon into the CVLA before he submits an application for dissolution of the corporate person under the IBC, 2016.
- The CVLA shall be maintained by IBBI and shall operate as a part of Public Accounts of India.
- If the Liquidator fails to deposit any amount into the CVLA in compliance of the Amendment Regulations, the Liquidator shall be held liable to deposit the same with interest at the rate of 12 per cent per annum.
- If any stakeholder claims entitlement to any part of the amount deposited into the CVLA, he shall apply to IBBI in a format prescribed under the Amendment Regulations.
- If any amount remains unclaimed for a period of 15 years from the date of dissolution, the same shall be transferred to the Consolidated Fund of India.

**Insolvency and
Bankruptcy Board of
India (Voluntary
Liquidation Process)
(Amendment)
Regulations, 2020**

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