

**09**

**STANDING COMMITTEE ON ENERGY  
(2020-21)**

**SEVENTEENTH LOK SABHA**

**MINISTRY OF POWER**

**[Action taken by the Government on the recommendations  
contained in the Thirty-seventh Report (16<sup>th</sup> Lok Sabha) on  
Stressed/Non-performing Assets in Power Sector]**

**NINTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*March, 2021/ Phalguna, 1942 (Saka)*

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[Action taken by the Government on the recommendations contained  
in the Thirty-seventh Report (16<sup>th</sup> Lok Sabha) on Stressed/Non-  
performing Assets in Power Sector]

*Presented to Lok Sabha on 19.03.2021*

*Laid in Rajya Sabha on 19.03.2021*



LOK SABHA SECRETARIAT  
NEW DELHI

*March, 2021/ Phalguna, 1942 (Saka)*

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## COMPOSITION OF THE STANDING COMMITTEE ON ENERGY (2020-21)

### LOK SABHA

**Shri Rajiv Ranjan Singh *alias* Lalan Singh - Chairperson**

2. Smt. Sajda Ahmed
3. Shri Gurjeet Singh Aujla
4. Shri Chandra Sekhar Bellana
6. Dr. A. Chellakumar
7. Shri Harish Dwivedi
8. Shri S. Gnanathiraviam
9. Shri Sanjay Haribhau Jadhav
10. Shri Kishan Kapoor
11. Km. Shobha Karandlaje
12. Shri Ramesh Chander Kaushik
13. Shri Ashok Mahadeorao Nete
14. Shri Praveen Kumar Nishad
15. Smt. Anupriya Patel
15. Shri Parbatbhai Savabhai Patel
16. Shri Jai Prakash
17. Shri Dipsinh Shankarsinh Rathod ^
18. Shri N. Uttam Kumar Reddy
19. Shri Shivkumar Chanabasappa Udasi
20. Shri P. Velusamy
21. Shri Akhilesh Yadav

### RAJYA SABHA

22. Shri Ajit Kumar Bhuyan
23. Shri T. K. S. Elangovan
24. Shri Muzibulla Khan
25. Shri Maharaja Sanajaoba Leishemba
26. Shri Jugalsinh Mathurji Lokhandwala
27. Shri Surendra Singh Nagar
28. Dr. Sudhanshu Trivedi
29. Shri K.T.S. Tulsi
30. Vacant \*
31. Vacant #

### SECRETARIAT

- |    |                           |                     |
|----|---------------------------|---------------------|
| 1. | Shri R.C. Tiwari          | Joint Secretary     |
| 2. | Shri R.K. Suryanarayanan  | Director            |
| 3. | Shri Kulmohan Singh Arora | Additional Director |
| 4. | Smt. L.N. Haokip          | Deputy Secretary    |
| 5. | Shri Manish Kumar         | Committee Officer   |

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<sup>^</sup> Nominated as Member of the Committee w.e.f. 28.12.2020

\* Vacant vice Shri Javed Ali Khan retired from Rajya Sabha on 25.11.2020

# Vacant since constitution of the Committee.

## INTRODUCTION

I, the Chairperson, Standing Committee on Energy, having been authorized by the Committee to present the Report on their behalf, present this Ninth Report on action taken by the Government on the recommendations contained in the Thirty-seventh Report (16<sup>th</sup> Lok Sabha) of the Standing Committee on Energy on the subject 'Stressed/Non-Performing Assets in Power Sector'.

2. The Thirty-Seventh Report was presented to Lok Sabha on 7<sup>th</sup> March, 2018 and was laid on the Table of Rajya Sabha on the same day. Replies of the Government to the recommendations contained in this Report were received on 10<sup>th</sup> August, 2020.

3. The Report was considered and adopted by the Committee at their sitting held on 18<sup>th</sup> March, 2021.

4. An analysis of the Action Taken by the Government on the recommendations contained in the Thirty-seventh Report (16<sup>th</sup> Lok Sabha) of the Committee is given at Appendix-V.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

**New Delhi  
18<sup>th</sup> March, 2021  
Phalguna 27, 1942 (Saka)**

**Rajiv Ranjan Singh *alias* Lalan Singh,  
Chairperson,  
Standing Committee on Energy**

## Chapter -I

This Report of the Standing Committee on Energy deals with the action taken by the Government on the Observations/Recommendations contained in the Thirty-seventh Report (Sixteenth Lok Sabha) on Stressed/Non-performing Assets in Power Sector.

2. The Thirty-seventh Report was presented to Lok Sabha on 7<sup>th</sup> March, 2018 and was laid same day on the Table of Rajya Sabha. The Report contained 15 Observations/Recommendations.

3. Action Taken Notes in respect of all the Observations/Recommendations contained in the Report were received on 10<sup>th</sup> August, 2020. These have been categorized as follows:

- (i) Observations/Recommendations which have been accepted by the Government:

Serial Nos. 1,2,3,4,5,6,7,8,9,11,12,13,14 and 15

Total - 14  
Chapter-II

- (ii) Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply:

- Nil -

Total - 00  
Chapter-III

- (iii) Observation/Recommendation in respect of which the reply of the Government has not been accepted by the Committee and which require reiteration:

Serial No. 10

Total-01  
Chapter-IV

- (iv) Observation/Recommendation in respect of which the final reply of the Government is still awaited:

- Nil -

Total - 00  
Chapter-V

4. The Committee observe that the 37<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) on 'Stressed/Non-Performing Assets in Power Sector' pertaining to the Ministry of Power was presented to Lok Sabha on 7<sup>th</sup> March, 2018 and was laid on same day on the Table of Rajya Sabha and the Ministry was required to submit the action taken reply on the Recommendations/Observations contained in the Report within a period of 3 months i. e. by 6<sup>th</sup> of June, 2018. The Committee, however, observe that the Ministry has submitted the requisite action taken reply on 10<sup>th</sup> August, 2020 after a delay of 2 years and 2 months. The Committee deplore the abnormal delay on the part of the Ministry in submission of the action taken replies to the Committee. The Committee while expressing their strong displeasure, caution the Ministry to be extra cautious and vigilant in timely submission of replies to the Committee and necessary instructions be issued to all concerned in the Ministry to strictly adhere to the timeline for responding to the Committee in future. The Committee further desire that the Action taken statement on the Recommendations/Observations contained in Chapter-I of this Report be furnished to the Committee within three months of the presentation of the Report.

5. The Committee will now deal with action taken by the Government on some of their Recommendations that require reiteration or merit comments.

#### **(Recommendation No. 1)**

##### **Constitution of a Task Force**

6. The Committee, in their Original Report, had recommended/observed as under:



“The Committee note that delicensing of power generation has been done to attract the entry of private sector into the power generation. This was done as the country was facing huge deficit in energy and peak power. The capacity addition targets required substantial capital addition per year with limited capacity addition expected from the public sector units (both Central and States). Private participation became essential for achieving the fast growth of power generation keeping pace with the demand of the country. During the 11<sup>th</sup> plan period, private generating companies contributed in electricity generation in a substantial manner by outdoing both Central and State Sector put together. In the capacity addition targets of the Government Private Sector have also contributed during the 12<sup>th</sup> plan period as well. Their contribution to the sector has led the country to a power surplus situation from the power deficient one. Hence it is incumbent upon the Government to ensure the proper facilitation of capacity generation stuck due to several factors and forcing them to become NPA. The committee, therefore, recommend that an appropriate task force be formed/constituted to specifically look into the problems of the IPPs with a view to bring them out of NPAs/Stressed Asset mire so that the power generation in the country is given a fillip and the vision of power for all 24x7 is achieved sooner than later.”

7. The Ministry, in their action taken reply, have stated as under:

“Government on 29.07.2018 had set up a High Level Empowered Committee (HLEC) headed by the Cabinet Secretary to address the issues of Stressed Thermal Power Projects in the Country. The composition of the Committee was as under:

- i. Cabinet Secretary - Chairman
- ii. Chairman Railway Board - Member
- iii. Secretary, Department of Economic Affairs - Member
- iv. Secretary, Department of Financial Services - Member
- v. Secretary, Ministry of Power (MoP) - Member (Convener)
- vi. Secretary, Ministry of Coal - Member
- vii. CMD, State Bank of India - Member
- viii. CMD, Power Finance Corporation - Member
- ix. CMD, Rural Electrification Corporation - Member
- x. CMD, Punjab National Bank – Member
- xi. CMD, ICICI Bank - Member

2. The Terms of Reference of the Committee were as follows:

- a. To assess the nature of stressed assets with a view to resolving the crisis and maximising the efficiency of investment.
- b. Changes required to be made in the fuel linkage/allocation policy/ other modes to facilitate supply of fuel to the stressed power plants.
- c. To facilitate sale of power by these stressed power plants.
- d. Suggest changes required in regulatory framework/administrative measures to facilitate faster disposal of tariff petitions/disputes and ensure interim payments during the pendency of the disputes before Appellate Tribunal for Electricity (APTEL) and other courts.
- e. Ensure timely payments by the Distribution Companies (DISCOMS), suggest payment security mechanism for IPPs.
- f. Changes required in the provisioning norms/Insolvency and Bankruptcy Code (IBC) to facilitate restructuring of the stressed assets including the changes required in Asset Restructuring Company (ARC) Regulations.
- g. Any other measures proposed for revival of stressed assets so as to avoid such investments becoming non-performing asset (NPA).

3. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, Government approved the recommendations of Group of Ministers (GoM). Subsequently, Ministry of Power vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is attached as Appendix-I.”

**8. The Committee while recognizing the importance and contribution of Private Sector Participation in the development of Power Sector in the country had recommended that an appropriate task force be formed/constituted to specifically look into the problems of the Independent Power Producers (IPPs) with a view to bring them out from the list of Stressed/Non-performing Assets (NPAs). The Ministry in their reply have stated that the Government on 29.07.2018 had set up a High-Level Empowered Committee (HLEC) headed by the Cabinet Secretary to address the issues of**

**Stressed Thermal Power Projects in the Country. The report of the HLEC was submitted on 12.11.18. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of the Group of Ministers (GoM). Subsequently, Ministry of Power *vide* OM dated 08.03.2019, notified the approval of the Government. The Ministry has also informed about the action taken on the recommendations given by the Group of Ministers.**

**The Committee note the efforts made by the Government at the appropriate level to resolve the issue of Stress/Non-performing Assets. The scrutiny of recommendations of the Group of Ministers by the Committee reveals that there is an attempt by the Government to address two of the main issues being faced by the IPPs *viz.* supply of coal to the power plants and power purchase agreements with the States/Discoms. The Committee is in agreement with the Government and of the belief that resolution of these two issues could help them to a great extent in coming out of stress. However, the effectiveness of the various steps taken by the Government has to be assessed at the ground level also. The Committee, therefore, would like to be apprised of the effectiveness of the various steps taken by the Government to resolve the issue of Stress/NPA in Power Sector and the number of power plants that have been taken out of the stress due to implementation of the recommendations of the Group of Ministers.**

## **(Recommendation No. 8)**

### **Scheme for Harnessing and Allocating Koyala Transparently in India (SHAKTI) Policy**

9. The Committee, in their Original Report, had recommended/observed as under:

“The Committee note that it was apprised during one of the interaction that there is no shortage of coal and the scheme SHAKTI formulated by the Government will take care of coal allocation for all the present and future power plants. The Committee was also informed that there is no power plants which has PPA, but does not have coal linkage. During interaction with independent power producers of 34 stressed power projects, the Committee were apprised that despite allocation of coal linkage, letter of assurance has not been issued even after 3 months. The Committee expressed its anguish about the manner in which the SHAKTI scheme is being implemented and time is being taken to provide coal to eligible promoters. The Committee has also been apprised that there is no consistency with regard to policy of the coal allocation and e-auction of the coal. This has adversely impacted them. Although, NCDP (New Coal Distribution Policy) envisaged automatic conversion of LOA into FSA upon fulfillment of certain conditions but the CIL, Coal India Limited declined to sign the FSA despite fulfillment of laid down conditions. This is indeed a very serious matter and needs urgent remedial measures by the all concerned. This should not have been allowed to happen as the stakes involved are enormous. There are genuine apprehensions regarding availability and allocation of coal among the power producers. During the recent study visit, the Committee itself found that the availability of coal in one of the NTPC plants is very critical and this is the situation in several other plants of the NTPC as well. This affectively rebuts the claim of the Coal India that there is no shortage of coal in the country. The Committee expect that CIL would focus on the seriousness of the issues instead of making tall claims without any basis. The delay in the implementation of the scheme of SHAKTI should not have happened as it has disastrous entailing effects. The Committee, therefore, recommend that CIL should make every effort to make the available the required quantity of coal to every developer in a time bound manner. Such timeframe for provision of coal to developers be also notified for public information.”

10. The Ministry, in their action taken reply, have stated as under:

“The total receipt (domestic & imported) and consumption of coal by coal based thermal plants in the country during the last four years are as under:

(Figures in Million Tonnes)

Year	Receipt					Consumption
	Domestic	Imported			Total Receipt	
		For blending purpose	Imported coal based plants	Total Imported		
2016-17	494.8	19.8	46.3	66.1	560.9	574.3
2017-18	538.6	17.0	39.4	56.4	595.0	608.0
2018-19	582.1	21.4	40.3	61.7	643.7	628.9
2019-20	569.5	23.8	45.5	69.2	638.7	622.2

1.1 As can be seen from above, receipt of domestic coal has been increasing except, during the year 2019-20 which showed a minor decrease. The domestic coal consumption during the year 2019-20 was 577.3 Million Tonnes (MT) against the actual receipt of 569.5 MT from domestic sources while 23.8 MT coal was imported for blending purpose. As reported by Coal India Limited (CIL), availability of domestic coal in the country has improved with opening stock of 75 MT at mines end and 45 MT at Plant end as on 31.03.2020.

1.2 Based on the generation target, the coal requirement for the plants designed on domestic coal during 2020-21 has been estimated to be about 645 MT. The expected availability of coal from various domestic sources during 2020-21 is about 668 MT against the requirement of 645 MT, which includes 530 MT from CIL, 55 MT from SCCL and 63 MT from captive sources. As the expected availability of domestic coal is more than the requirement during 2020-21, there may be very little requirement of importing coal for blending purpose depending upon cost economics and transportation logistics. In light of this, MoP has requested all the Generating companies (Gencos) [who are importing coal for blending purpose], to make best efforts to replace their imports with domestic coal. At present, the availability of coal stock of 49.31 MT with Thermal Power Plants (TPPs) as on 18.06.2020 is sufficient to meet requirements of TPPs for about 28 days.

1.3 Power plants designed on domestic coal are importing coal for blending purposes, considering their cost-economics and to bridge the shortfall in the availability of domestic coal, if any. However, the quantum of import for blending is very less as compared to domestic coal receipt. Further, power plants designed on imported coal, are importing coal to meet their fuel requirement as they are designed to operate on imported coal. Further, import of coal is under Open General License (OGL), and hence, the power utilities import coal considering their cost economics. As per Import substitution Notice of CIL dated 05.02.2019, power utilities were given option for supply of coal under Import substitution to meet their shortfall against Annual Contracted Quantity (ACQ) for FY 2018-19. Subsequently, CIL has issued another notice dated 27.05.2019 regarding import substitution for the year 2019-20 also.

1.4 However, the Government has been making effort for reducing import of coal for blending purpose and replacing it with domestic coal because coal import entails outgo of scarce foreign exchange. For this, MoP has written to the Gencos to make best efforts to reduce the imported coal with domestic coal for blending purpose. Further, MOP has also requested MoC to establish an electronic portal as e-facilitation centre to facilitate necessary clearances and redressal of issues raised by Gencos which would enable them to replace the import of coal for blending purpose by the domestic coal. Further, an Inter- Ministerial Committee (IMC) for the purpose of coal import substitution has been constituted under the chairmanship of Additional Secretary (Ministry of Coal).

1.5 The total nos. of captive coal blocks that have been allocated to the Power Sector are 65 nos. Out of these 65 nos. coal blocks, 03 nos. coal blocks have been surrendered and the total 11 nos. of coal blocks are underproduction.

1.6 The Government in May, 2016 approved the proposal for allowing flexibility in utilization of domestic coal amongst power generating stations to reduce the cost of power generation through saving in the transportation cost and operating the most efficient plant. The State/Central Gencos have flexibility to utilize their coal in most efficient and cost effective manner in their own power plants as well as by transferring coal to other State Genco/Central Genco/IPP generating stations for generation of cheaper power.

1.7 Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named SHAKTI (Scheme for harnessing & allocating koyla transparently in India). Linkages

granted under SHAKTI Policy:

- a. **Shakti Policy Para B(i):** Linkage granted to 23 nos. Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.
- b. **Shakti Policy Para B(ii):** Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having PPA but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of SHAKTI, the auction has been held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.
- c. **Shakti Policy Para B(iii):** Bidding held from 5<sup>th</sup> to 7<sup>th</sup> February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49 MT.
- d. **Shakti Policy Para B(iv):** Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.
- e. Under B(v), aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.
- f. **Shakti Policy Para B(viii)(a):** Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a) for the quarter July-September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

1.8 Thus it may be noted that Government has been making sustained efforts to optimize utilization of available coal resources.”

**11. The Committee in their 37<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) had noted various efforts reportedly made by the Government, including implementation of the SHAKTI Scheme, to remove the constraints in availability/supply of coal to the power plants. However, they had also found that despite the efforts made by the Government there were still some issues which were creating**

**hurdles for the power plants in getting the desired amount of coal. The Committee, therefore, had recommended to make available the required quantity of coal to every developer in a time-bound manner. The Ministry now have enumerated various steps taken by them regarding making coal available to the power plants. The Committee have also be given to understand that there is no shortage of coal as it is available in sufficient amount. The Committee do acknowledge the various efforts being made by the Government to enhance the availability of coal to the power plants. Nevertheless, they also know that the availability of coal is the one thing and its actual supply to power plants is the other. The Ministry were also expected to provide the details of the power plants which are/were facing constraints in getting the desired amount of coal and the reasons for the same. The Committee believe that the efforts made by the Government may have eased out the constraints in getting coal in adequate amount, even so, they desired to be apprised of the details of power plants which are still facing any difficulty in this regard for whatever reason.**

**Inter-Ministerial group on NPAs**

**(Recommendation No. 9)**

12. The Committee, in their Original Report, had recommended/observed as under:

“The Committee note that although generation is a delicensed activity, yet role of various agencies of the Government has been clearly outlined in the Electricity Act, 2003. Electricity Act prescribed the constitution of Central Electricity Authority, its functions, duties and power to require statistics and returns. In addition to advice the Government on matters related to National Electricity Policy, it also formulate perspective plan for the development of electricity system, coordinating the activities of planning agencies for optimal utilization



of resources to serve the interest of the nation and also to provide reliable and affordable electricity for all the consumers, prescribe technical standards for the construction of electrical plants connectivity to the grid, safety requirements of construction, operational and maintenance of plant and timely completion of schemes and projects for improving the system etc. It is also empowered to carry out any investigation for the purpose of generating, transmitting or developing electricity. In view of the Committee, these are the wide ranging powers which can be exercised to streamline the sector. The absence of licenses for generation of electricity has only provided an opportunity for the developers to eschew an inconsequential formality as sector have to be opened if we want to invite competition, efficiency, transparency and growth. Rest of the activities associated with are very much there and the promotional and regulatory framework have not been tinkered. The responsibility dwells upon the Ministry of Power to ensure that promotional and regulatory activities are done in an expected manner. They cannot be absolved from their role and responsibility on the ground of the generation being delicensed. The Committee, therefore, recommend that Ministry of Power and its associate bodies should become pro-active in understanding and redressing the woes of the sector and expect the inter-Ministerial group of the Ministry will come out with the specific remedies to the different maladies plaguing the sector and distracting its growth. It is expected that the views/suggestions of the IMG will be realistic, sector friendly and spur the growth of the electricity sector.”

13. The Ministry, in their action taken reply, have stated as under:

“Government of India constituted a **High Level Empowered Committee (HLEC)** under the Chairmanship of Cabinet Secretary to address the issues of stressed thermal power projects. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM). Subsequently, MoP vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Appendix-I**.

2. The status of 34 stressed thermal power projects analysed by Ministry of Power is as follows:

- i. 14 projects with a total capacity of 16,450 MW have been resolved.
- ii. 13 projects with a total capacity of 16,270 MW are at various stages of resolution.
- iii. 7 projects with a total capacity of 7,410 MW are at very initial stage of construction and are totally stalled. Such projects have either been ordered to be liquidated or heading towards liquidation.

2.1 It may be summed up as follows:

Sl. No.	Status	Nos. of projects	Capacity (MW)	Commissioned (MW)	PPA Tied (MW)	Fuel tied up(MW)
I	Resolved	14	16,450	15850	10746	13122
II	Likely to be resolved	13	16,270	10269	6817	10654
III	Heading for Liquidation	7	7,410	135	1484.5	971
	Total	34	40,130	26,254	19,047.5	24,747

2.2 Detailed status is enclosed as **Appendix -II**.

3. The following steps have been taken by the Government to resolve the stress in thermal power sector:

- i. After the cancellation of 204 coal blocks, Government of India formulated a transparent policy for re-allocation of cancelled coal mines in a fair and transparent method. Government has re-allocated 62 blocks through auction/allotment till date to power sector.
- ii. Based on the request of Ministry of Power (MoP), Ministry of Coal (MoC) vide letter dated 13.04.2016 started separate e-auction window for power sector under which Coal India Limited (CIL) is making arrangements for conduct of special forward e-auction (SFeA) of coal exclusively for power sector on a sustained basis, offering adequate quantities at regular intervals so that coal is made available to such power plants on regular

basis. CIL has allocated 27.12 million tonnes of coal through SFeA to the power sector during Apr, 2019 to March,2020.

- iii. Based on inputs provided by MoP, MoC vide letter dated 08.02.2016 had notified policy guidelines for grant of Bridge Linkage to specified end use plants of Central and State Public Sector Undertakings (Both in Power as well as Non-Power sector) which have been allotted coal mines or blocks. Bridge linkages applications for public sector power projects in prescribed formats have been approved.
- iv. **Fuel Linkages under SHAKTI;** Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named SHAKTI (Scheme for harnessing & allocating koyla transparently in India). Linkages granted under SHAKTI Policy:
  - a. **Shakti Policy Para B(i):** Linkage granted to 23 nos. Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.
  - b. **Shakti Policy Para B(ii):** Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having PPA but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of SHAKTI, the auction has been held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.
  - c. **Shakti Policy Para B(iii):** Bidding held from 5<sup>th</sup> to 7<sup>th</sup> February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49MT.
  - d. **Shakti Policy Para B(iv):** Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.
  - e. Under **B(v)**, aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.
  - f. **Shakti Policy Para B(viii)(a):** Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a)

for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

**3.1 Pilot project for procurement of 2500 MW power:** In order to address the problem of lack of Power Purchase Agreements (PPAs) in the country, the Ministry of Power had notified a scheme for procurement of 2500 MW on competitive basis for a period of 3 years from the generators with commissioned projects having untied capacity.

- a. **1st Round (2500 MW):** Letter of Award (LOA) was issued to all the successful bidders (1900 MW) - PPA signed for 1900MW.
- b. **2nd Round (2500 MW):** Bid Security for 21 bidders for a total capacity of 6000 MW was received. Bids opened on 07.02.2020. 12 bidders were successful with capacity of 2500 MW. The State of Tamil Nadu has shown interest for procuring 500MW.

**3.2 Payment Security Mechanism:** Ministry issued an order on 28.06.2019 and subsequent corrigendum thereon 17.07.2019. National & Regional Load Despatch Centres (NLDC & RLDC) have been directed to dispatch power only after it is intimated by the Generating Company and/Distribution Companies that a Letter of Credit (LC) for the desired quantum of power has been opened. This has ensured timely payments by Discoms to the generators.

3.3 In view of the above, it may please be noted that Ministry of Power is taking all the necessary steps to reduce the stress in the power sector. It may be observed that sincere efforts have been made by the Government to make these assets standard by providing all possible assistance to them in terms of proving them options for coal linkage or offer of PPAs through Pilot schemes.

4. As per Section 7 of the Electricity Act, 2003, any generating company can establish, operate and maintain a generating station without obtaining a license/ permission if it complies with the technical standards relating to connectivity with the grid.

4.1 As power generation is a de-licensed activity, decision to set up a power plant is taken by the concerned developer based on his /her assessment of market conditions, demand of power in future, finance options, viability of the project etc. In order to finance the project, a Financial Agreement is signed between the developer and the lender based on mutual negotiation and understanding, and the risk is entirely borne by the developers and the lenders. Lenders

normally deploy a Project Engineer to assess and evaluate the project financing costs based on the extant lending norms of the Banks/Financial Institutions etc. Ministry of Power has no role to play in any kind of financial tie-up of such power generation projects.

4.2 There are extant norms of Central Electricity Regulatory Commission (CERC) for the Operation & Maintenance (O&M) expenses already in place on per MW basis to check whether the developer is gold plating O&M expenses. It is also mentioned that the bankers appoint a Lenders' Financial Advisor (LFA) and Lenders' Engineer for a particular project to monitor the cash flow of the project.

4.3 The sectoral issues as identified by HLEC as the causes of stress have been resolved by different policy interventions taken by the Government.

4.4 The details of resolution process of the stressed assets through Insolvency & Bankruptcy Code (IBC) and through National Company Law Tribunal (NCLT) have been given at **Appendix -III** to this Note. It may be seen from **Appendix -III** that the resolution of a stressed projects is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT. The process of resolution by lenders is overseen by Department of Financial Services (DFS) which is the administrative Ministry for all Financial Institutions/ Banks. The frame-work and role for NCLT come under the jurisdiction of Ministry of Corporate Affairs (MCA). Thus, it may be seen that project developers/ lenders can seek remedy in case of Non-Performing Asset under the above two resolution processes. It is pertinent to note that Ministry of Power has no role in the aforesaid process of resolution of stressed assets through IBC/NCLT.”

**14. The Committee, considering the wide-ranging powers of Central Electricity Authority (CEA) which can be exercised to streamline the sector, had opined that the responsibility to ensure that promotional and regulatory activities are done expectedly dwells upon the Ministry of Power also. Thus they cannot be absolved from their role and responsibility on the ground of the generation being de-licensed. The Committee, therefore, had**

recommended that the Ministry of Power and its statutory organizations should become pro-active in understanding and redressing the woes of the sector. Though the Ministry have enumerated various steps taken by them including implementation of recommendations of High-Level Empowered Committee (HLEC)/Group of Ministers (GoM), they have not mentioned anything about any changes made/proposed in the functioning of statutory organizations of the Ministry particularly CEA to make them pro-active as desired by this Committee. The Committee are of the firm opinion that apart from investigating the matter of Stress/Non-Performing Assets (NPAs) in the power sector to find out reasons and authorities responsible, efforts should also be made to ensure that such situation does not reoccur. *Prima facie*, problems such as inadequate supply/availability of coal, issues relating to Power Purchase Agreements, lack of working capital, etc., may appear the reasons for the present condition of Stress/NPAs in the power sector. However, the Committee believe that this situation arose as several thermal power projects were commissioned in a short span of time due to oversight by the Central Electricity Authority (CEA). Since CEA is also involved in the formulation of short-term and perspective plans for the development of the electricity system and co-ordinates the activities of the planning agencies for the optimal utilization of resources, therefore, they have to share the responsibility for the present situation. Considering the recent development in the power sector wherein more impetus is being given to renewable energy which being intermittent in nature can deter optimum utilization of present generation capacity, the Committee are concerned that similar situation may also arise in future. Moreover, the present

generation capacity is characterized by the dominance of coal-based power plants and less than the desired share of hydropower. The Committee are aware that for a robust, sustainable and efficient power sector there must be an ideal mix of power generation capacity. Although electricity generation is a de-licensed activity but allowing its lopsided development is not in the interest of the country either. The Committee, would therefore re-emphasise that the Ministry of Power and its associate bodies should become pro-active in understanding and redressing the issues of the sector. The Committee expect that the Ministry would come up with an action plan to effect tangible changes in their functioning with provisions of accountability in the system.

#### **(Recommendation No. 10)**

##### **Regulatory Issues**

15. The Committee, in their Original Report, had recommended/observed as under:

“The Committee note that Ministry of Power has made attempts to facilitate the resolution of issues concerning stress in power sector. Several meeting have taken place from July, 2015 onwards with lenders and others but nothing concrete has come out so far. The Committee feel that in addition to financial matters, stress in the sector is also caused by various operational/ commercial/ regulatory issues. Regulatory matters keep on pending for years without any decision. Even the decisions of the regulatory bodies regarding change in law are not honoured by Discoms and various regulators interpret change in law differently leading to the confusion in the sector. Any situation arising out of the change in law should be uniform all across and if possible be kept out of the purview of the regulators. The Committee are aware that this is a Concurrent Subject and generation is a delicensed activity, but within these limitations some uniform mechanism will have to be explored and established to make the sector stable. The Committee, therefore,

recommend that appropriate steps should be taken to ensure that there should be consistency and uniformity with regard to orders emanating from the status of change in law. Provisions should also be made for certain percentage of payments of regulatory dues to be paid by Discoms in case the orders of regulators are being taken to APTEL/higher judiciary for their consideration and decision.”

16. The Ministry, in their action taken reply, have stated as under:

“Regarding Change-in-Law, the Tariff Policy notified by Central Government on 28.01.2016 at Para 6.2.4 provides that after the award of bids, if there is any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, the same may be treated as “Change in Law” and may unless provided otherwise in the PPA, be allowed as pass through subject to approval of Appropriate Commission.

2. In regard to uniformity of Decisions, the Regulatory orders regarding Change in Law mainly depend on provisions in the PPA as also on the interpretation of these provisions. The Electricity Act has not envisaged a hierarchical relationship between the Central Electricity Regulatory Commission and the State/ Joint Electricity Regulatory Commissions. State Electricity Regulatory Commissions (SERCs)/ Joint Electricity Regulatory Commissions (JERCs) may provide their own interpretation. However, aggrieved parties are free to approach the Appellate Tribunal for Electricity (APTEL)/ Supreme Court challenging the decision of the SERC/ JERC as the case may be. However, the Orders of APTEL/ Supreme Court are applicable uniformly across the jurisdictions of all SERCs/ JERCs. It is pertinent to mention that a number of cases regarding “Change-in-Law” have been decided by APTEL and they will be uniformly applicable to all.

3. As regards recommendation that certain percentage of payment should be made when order is challenged in higher judicial forum, it may be noted that, the Electricity Act does not envisage any provision for payment of certain percentage of regulatory dues at the time of filing of appeal against the Order of the Regulatory Commission, such provision may have to be made in PPA.

4. Ministry of Power vide letter dated 27.08.2018 has issued following directions to Central Electricity Regulatory Commission under section 107 of the Electricity Act:



(i) Any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, may be treated as "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through

(ii) Central Commission will only determine the per unit impact of such change in domestic duties, levies, cess and taxes, which will be passed on.

(iii) A draft Order for determination of per unit impact under change in law shall be circulated by Central Commission to all the States/Beneficiary on 14th Day of filing of petition. Any objection/representation shall be submitted by them within 21 days of filing of petition.

(iv) The order for pass through giving the calculation for per unit impact will be issued within 30 days of filing of petition.

(v) The impact of such Change in law shall be effective from the date of change in law.

(vi) Where CERC has already passed an order to allow pass through of changes in domestic duties, levies, cess and taxes in any case under Change-in-law, this will apply to all cases ipso facto and no additional petition would need to be filed in this regard."

**17. The Committee while advocating for consistency and uniformity about orders emanating from the status of change in law, had also desired that provisions should be made for certain percentage of payments of regulatory dues to be paid by Discoms in case the orders of regulators are being taken to Appellate Tribunal For Electricity (APTEL)/higher judiciary for their consideration and decision. The Ministry in their action taken reply have stated that the Electricity Act does not envisage any provision for payment of certain percentage of regulatory dues at the time of filing of appeal against the Order of the Regulatory Commission, therefore, such provision may have to be made in Power Purchase Agreement. The Committee had expected the Ministry to examine their recommendation on its merit by weighing its expected benefits and drawbacks and have apprised the Committee about its implementability accordingly. The Committee knew that there is no**

**such provision in the statute, therefore, they had recommended to make one in this regard. The Committee, therefore, would like to reiterate their recommendation and expect that the Ministry would sincerely examine their recommendation for its implementation.**

**(Recommendation No. 12)**

**Role of RBI**

18. The Committee, in their Original Report, had recommended/observed as under:

“The Committee note that RBI has issued guidelines for Strategic Debt Restructuring Scheme. Under the scheme, for viability accounts facing financial difficulties, lenders may consider restructuring the debt. RBI has also formulated the Scheme for Sustainable Structuring of Stressed Assets (S4A) an optional framework for the resolution of large stressed accounts. The S4A envisages determination of sustainable level for a stressed borrower and bifurcation of outstanding debt into sustainable debt and equity/quasi equity instruments which are expected to provide upside to the lenders when the borrowers turn-round. In view of the Committee, the scheme of the RBI seems to be appropriate to help the sector but in reality the situation is not as real as has been attempted to. During interaction with various IPPs regarding the reasons for NPA and financing of sector, the Committee were apprised that NPA in power sector has been abetted by high rate of interest by finances, denial of variables of interest to developers, cost escalation due to extraneous reasons like court cases, delayed decision by lending consortium, lack of working capital, etc. These financial issues are from commonplace in nature but have the potential to affect the viability of the project. No extraordinary measures are required to address these problems which if resolved have the potential to affect a turn-around in the project. The Committee, therefore, recommend that the revival schemes of the RBI or the Government should be realistic and not symbolic. Every effort should be made to see that projects with huge investment do not become NPA for want of marginal financial infusion or adjustment in the way of making working capital available for passing on the interest variable to the stressed asset.”

19. The Ministry, in their action taken reply, have stated as under:

“RBI vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 – flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 crore and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timeline by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon’ble Supreme Court later. Subsequently, the Hon’ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is *ultra vires* Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

- a. Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b. Inter-Creditor Agreement (ICA): In cases where RP is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the RP.
- c. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.
- d. An RP shall be deemed to be ‘implemented’ only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of

the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

- e. Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions asunder:

<b>Timeline for RP</b>	<b>Add. provisioning</b>
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

- f. Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.
- g. Requirement of 100% consent of lenders for resolution outside IBC is done away with.”

**20. The Committee had recommended that the revival schemes of the RBI or the Government should be realistic and not symbolic. They had also desired that every effort should be made to see that projects with huge investment do not become Non-performing Assets for want of marginal financial infusion or adjustment in the way of making working capital available for passing on the interest variable to the stressed asset. The Ministry in their action taken reply have now informed that RBI by its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 had allowed various steps. The Committee believe that these steps would help ameliorate the situation of stress in the power sector. The Committee, however, find that there is no specific information regarding making working capital available to the stressed power plants. The Committee desire that short term business glitches or unprecedented condition beyond the control of the developers**

**should not lead power plants to become stressed/NPAs just for want of working capital. Due to COVID-19 pandemic, the issue of making available working capital to the power plants has become more pertinent. The Committee, therefore, expect the Government to take the required steps to address this issue with utmost sincerity.**

## **CHAPTER II**

### **OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT**

#### **Recommendation No. 1**

The Committee note that delicensing of power generation has been done to attract the entry of private sector into the power generation. This was done as the country was facing huge deficit in energy and peak power. The capacity addition targets required substantial capital addition per year with limited capacity addition expected from the public sector units (both Central and States). Private participation became essential for achieving the fast growth of power generation keeping pace with the demand of the country. During the 11<sup>th</sup> plan period, private generating companies contributed in electricity generation in a substantial manner by outdoing both Central and State Sector put together. In the capacity addition targets of the Government Private Sector have also contributed during the 12<sup>th</sup> plan period as well. Their contribution to the sector has led the country to a power surplus situation from the power deficient one. Hence it is incumbent upon the Government to ensure the proper facilitation of capacity generation stuck due to several factors and forcing them to become NPA. The committee, therefore, recommend that an appropriate task force be formed/constituted to specifically look into the problems of the IPPs with a view to bring them out of NPAs/Stressed Asset mire so that the power generation in the country is given a fillip and the vision of power for all 24\*7 is achieved sooner than later.

#### **Reply of the Government**

1. Government on 29.07.2018 had set up a High Level Empowered Committee (HLEC) headed by the Cabinet Secretary to address the issues of Stressed Thermal Power Projects in the Country. The composition of the Committee was as under:

- i. Cabinet Secretary -Chairman
- ii. Chairman Railway Board -Member
- iii. Secretary, Department of Economic Affairs -Member
- iv. Secretary, Department of Financial Services -Member
- v. Secretary, Ministry of Power (MoP) - Member(Convener)

- vi. Secretary, Ministry of Coal –Member
- vii. CMD, State Bank of India –Member
- viii. CMD, Power Finance Corporation -Member
- ix. CMD, Rural Electrification Corporation -Member
- x. CMD, Punjab National Bank –Member
- xi. CMD, ICICI Bank -Member

2. The Terms of Reference of the Committee were as follows:

- i) To assess the nature of stressed assets with a view to resolving the crisis and maximizing the efficiency of investment.
- ii) Changes required to be made in the fuel linkage/allocation policy/ other modes to facilitate supply of fuel to the stressed power plants.
- iii) To facilitate sale of power by these stressed power plants.
- iv) Suggest changes required in regulatory framework/administrative measures to facilitate faster disposal of tariff petitions/disputes and ensure interim payments during the pendency of the disputes before Appellate Tribunal for Electricity (APTEL) and other courts.
- v) Ensure timely payments by the Distribution Companies (DISCOMS), suggest payment security mechanism for IPPs.
- vi) Changes required in the provisioning norms/Insolvency and Bankruptcy Code (IBC) to facilitate restructuring of the stressed assets including the changes required in Asset Restructuring Company (ARC) Regulations.
- vii) Any other measures proposed for revival of stressed assets so as to avoid such investments becoming non-performing asset (NPA).

3. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, Government approved the recommendations of Group of

Ministers (GoM). Subsequently, Ministry of Power vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Appendix -I**.

[Ministry of Power O.M No. P-6/2018-IPC Date: 28/07/2020]

### **Comments of the Committee**

**(Please see Para No. 8 of Chapter – I of the Report)**

#### **Stressed Assets in Power Sector**

##### **Recommendation No. 2**

The Committee note that with the delicensing of the generation, private entrepreneurs have entered into the foray of electricity generation in a big way. The electricity sector has its own inherent uncertainties and volatile conditions. The stability of the sector hinges of many sectors such as demand-supply equilibrium, signing of PPA, backing of FSA, availability of transmission and distribution network, financial health of distribution companies and other regulatory framework. Any lack of updation in any of the areas has the potential to destabilize the delivery capacity of the entire chain. It also has its economic and sectoral implications. If the policy certainty, stable financial arrangements and transparent regulatory framework is permitted slight deviation in between, it may derail the entire activity with unforeseen consequences. Social/ political issues, reneging of parties from contractual obligations and non-fulfillment of enshrined promises make the situation worse. The issue of NPA/Stressed Assets in power sector is nothing but a combination of all the factors cited above. Collectively, it is unimaginative and more of a fire fighting exercise than a well thought-out, coordinated and impeccably executed attempt for the growth of the power sector. The Committee have heard the views on the status and fate of each of the 34 projects in question and are inclined to infer that it is a concrete manifestation of lack of collective will power, imagination, determination and action plan on the part of all concerned. However, the silver lining is also lurking as now the serious attempts are being made to address the issue and make as many NPAs in power sector productive as possible. The Committee appreciate the effort of various agencies/ organizations involved in the exercise and presume that they will display courage and a sense of purpose to solve the issue. The



committee, therefore, recommend that there should be no let up in the efforts to pick up the cudgels of the Stressed Assets and NPA and should focus our resolve for solving the problem.

### **Reply of the Government**

1. The status of 34 stressed thermal power projects identified by Department of Financial Services (DFS) and analysed by Ministry of Power (MoP) is as follows:

- i. 14 projects with a total capacity of 16,450 MW have been resolved.
- ii. 13 projects with a total capacity of 16,270 MW are at various stages of resolution.
- iii. 7 projects with a total capacity of 7,410 MW are at very initial stage of construction and are totally stalled. Such projects have either been ordered to be liquidated or heading towards liquidation.

1.1 The summary status of 34 stressed thermal projects are as follows:

Sl. No.	Status	Nos. of projects	Capacity (MW)	Commissioned (MW)	PPA Tied (MW)	Fuel tied up(MW)
I	Resolved	14	16,450	15850	10746	13122
II	Likely to be resolved	13	16,270	10269	6817	10654
III	Heading for Liquidation	7	7,410	135	1484.5	971
	<b>Total</b>	<b>34</b>	<b>40,130</b>	<b>26,254</b>	<b>19,047.5</b>	<b>24,747</b>

1.2 Detailed status is enclosed as **Appendix -II**.

2. The following steps have been taken by the Government to resolve the stress in thermal power sector:

- i. After the cancellation of 204 coal blocks, Government of India formulated a transparent policy for re-allocation of cancelled coal mines in a fair and transparent method. Government has re-allocated 62 blocks through auction/allotment till date to power sector.
- ii. Based on the request of Ministry of Power (MoP), Ministry of Coal (MoC) vide letter dated 13.04.2016 started separate e-auction window for power sector under which Coal India Limited (CIL) is making arrangements for conduct of Special Forward e-auction (SFeA) of coal exclusively for power sector on a sustained basis, offering adequate quantities at regular intervals so that coal is made available to such power plants on regular basis. CIL has allocated 27.12 million tonnes of coal through Special Forward e-Auction (SFeA) to the power sector during Apr, 2019 to March, 2020.
- iii. Based on inputs provided by Ministry of Power(MoP), Ministry of Coal (MoC) vide letter dated 08.02.2016 had notified policy guidelines for grant of Bridge Linkage to specified end use plants of Central and State Public Sector Undertakings (Both in Power as well as Non-Power sector) which have been allotted coal mines or blocks. Bridge linkages applications for public sector power projects in prescribed formats have been approved.
- iv. Fuel Linkages under SHAKTI; Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named SHAKTI (Scheme for Harnessing & Allocating Koyla Transparently in India). Linkages granted under SHAKTI Policy:
  - Shakti Policy Para B(i): Linkage granted to 23 nos. Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.
  - Shakti Policy Para B(ii): Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having Power Purchase Agreement (PPA) but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of SHAKTI, the auction had been held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.

- Shakti Policy Para B(iii): Bidding held from 5<sup>th</sup> to 7<sup>th</sup> February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) have secured linkage for 6.49MT.
- Shakti Policy Para B(iv): Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of Uttar Pradesh (UP) for 1,600 MW and to the State of Madhya Pradesh (MP) for 2640 MW power to be raised through tariff based competitive bidding.
- Under B(v), aggregator Power Finance Corporation (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.
- Shakti Policy Para B(viii)(a): Methodology issued by MoP on 02.12.2019. Guidelines issued by Central Electricity Authority (CEA). Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. Coal India Limited (CIL) has completed the process of conducting.
- Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a) for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with zero premium.

2.1 Pilot project for procurement of 2500 MW power: In order to address the problem of lack of Power Purchase Agreements (PPAs) in the country, the Ministry of Power had notified a scheme for procurement of 2500 MW on competitive basis for a period of 3 years from the generators with commissioned projects having untied capacity.

- 1st Round (2500 MW): Letter of Award (LOA) was issued to all the successful bidders (1900 MW) - PPA signed for 1900MW.
- 2nd Round (2500 MW): Bid Security for 21 bidders for a total capacity of 6000 MW was received. Bids opened on 07.02.2020. 12 bidders were successful with capacity of 2500 MW. The State of Tamil Nadu has shown interest for procuring 500MW.

2.2 Payment Security Mechanism: Ministry issued an order on 28.06.2019 and subsequent corrigendum thereon 17.07.2019. National & Regional Load Despatch Centres (NLDC & RLDC) have been directed to dispatch power only after it is intimated by the Generating Company and Distribution Companies that a Letter of

Credit (LC) for the desired quantum of power has been opened. This has ensured timely payments by Discoms to the generators.

2.3 In view of the above, it may please be noted that Ministry of Power is taking all the necessary steps to reduce the stress in the power sector. It may be observed that sincere efforts have been made by the Government to make these assets standard by providing all possible assistance to them in terms of proving them options for coal linkage or offer of PPAs through Pilotschemes.

[Ministry of Power O.MNo.P-6/2018-IPC Date: 28/07/2020]

### **Recommendation No. 3**

The Committee note that as per the directions of Reserve Bank of India, an asset is classified as NPA if a loan or an advance where interest or instalment of principal remains overdue for a period of 90 days in respect of term-loan. Similarly, stressed assets are accounts where there has been delay in payment of interest and/ or payment as against the repayment scheduled on account of financial difficulties faced by the borrower. As per Income Recognition/ Asset Classification norms of RBI, when an asset fails to serve its debt obligation within the prescribed timeframe, it is symptomatic of an incipient stress and potential NPA. This could be due to various reasons and may not be limited to timely project implementation only. In such a situation, corrective measures of various grades, i.e., rectification, restructuring and recovery should be considered keeping in view the totality of the situation. The Committee have been given to understand that now-a-days, prevalent practice of expected loss method to rate power sector the delay in fulfilment of obligation even by a day leads to asset being de-rated. As the rating goes down, the bank starts charging penal interest rather than supporting the asset/project. This kind of practice will only compound the situation rather than easing it. If the lenders allow a period of 90 days before classifying the asset as NPA, they should be guided by their own norms for charging interest rather than by the grading of assets by the rating agencies. The committee, therefore, recommend that for classification of assets as NPA and consequential action as a result thereof lender should follow their own norms regarding charging of interest. They should also keep in view the factors that are responsible for an asset becoming NPA and try to help the asset to the extend possible in not becoming NPA.

### **Reply of the Government**

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 - flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs.2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by Association of Power producers (APP), Independent Power Producers Association of India (IPPAI) and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is ultra vires Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.

3. Thereafter, RBI vide its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

- a. Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b. Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above- said Review Period, to provide for ground rules for finalization and implementation of the RP.
- c. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d. An RP shall be deemed	180 days from the end of Review Period	20%
	365 days from the commencement of Review Period	35%

emed to be ‘implemented’ only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

- e. Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:
- f. Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.
- g. Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power O.MNo.P-6/2018-IPC Date: 28/07/2020]

#### **Recommendation No. 4**

The Committee note that credit related issues are deregulated and banks are required to take credit related decisions based on their internal assessment of the commercial viability of loan within their approved policies and relevant regulatory guidelines. However, Reserve Bank of India and Department of Banking Supervision check the implementation and enforcement of guidelines at various stages. Non-compliance of guidelines are communicated to the respective banks by the RBI with a view to make required provisions putting in place the requisite monitoring and control mechanism. The compliance of banks to these observations are tracked through monitoring action plan/ risk mitigation plan. Banks’ internal audit, concurrent audit and statutory audit verify the instructions on income recognition, classification and provisioning norms as laid down by the RBI. The Committee note that sufficient checks and balances have been introduced with regard to the lending by the banks. Despite this provision, it is felt that due prudence have not been observed by the banks while considering the loan.

Therefore, the process and stages of granting a loan along with the criteria for loan grant needs a revisit. A realistic and comprehensive approach should be taken keeping in view of the vital factors necessary for the exercise. The committee, therefore, recommend that the process of grant of loan, supervisory mechanism and its subsequent monitoring should be given a relook to make it more realistic and productive.

### **Reply of the Government**

1. RBI vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 – flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is ultra vires Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.

3. Thereafter, RBI vide its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

- a. Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b. Inter-Creditor Agreement (ICA): In cases where RP is to be implemented, all lenders shall enter into an ICA, during the above-

said Review Period, to provide for ground rules for finalization and implementation of the RP.

c. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d. An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e. Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f. Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g. Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power O.MNo. P-6/2018-IPC Dated 28/07/2020]

### **Recommendation No. 5**

The Committee note that Section 35A of the Banking Regulation Act, 1949 empowers RBI to issue directions to banking companies regarding conduct of their affair. From time to time, RBI also revises its guidelines keeping in view the prevailing macro-economic situation, systematic risk and an assessment of the health of the banking system. There are three such categories under Special Mention Account (SMA) as : (a) AMA-0: Principal or interest payment not overdue for more than 30 days but account showing signs of incipient stress. (b) SMA-1: Principal or interest payment overdue between 31-60 days. (c) SMA-2: Principal



or interest payment overdue between 61-90 days. These categories prescribe the stages for identifying the brewing stress in the account. Once an account comes in the category of SMA-2, banks are mandatorily required to form a committee called Joint Lenders Forum ensuring time-bound detection and resolution of stress. However, the Committee note that all these exercises trigger only by the non-fulfilment or non-payment of the credit repayment obligation. Centrality of the entire exercise revolves around the safe recovery of the loans granted to the project rather than resolving the issue of stress and making the asset productive. The Committee are of the considered view that providing finances, though vital, to the project is only one of the several factors essential for the commissioning of the project. As of now, commissioned plants worth of thousands of MWs are under severe financial stress and are currently under SMA-1/2 stage or on the brink of becoming NPA. This is due to fuel shortage, sub-optimal loading, untied capacities, absence of FSA and lack of PPA, etc. These projects were commissioned on the basis of national need/ demand of electricity, availability of all other essentials required in this regard. However, due to unforeseen circumstances, these plants are suffering from cash flows, credit rating, interest servicing etc. Hence, simply applying the RBI guidelines mechanically by the banks, financial institutions, joint lender forums will push these plants further into trouble without any hope of recovery. The Government of India proposed new credit rating system for fundamentally strong projects which face temporary cash flow mismatch. The emphasis was on various inbuilt credit enhancement structures. The Committee understand that banks have not adopted these guidelines for assessing the credit risk of infrastructure companies. The new norms provided the risk weight corresponding to each rating levels which the banks have to use for their capital adequacy. The Committee are of the opinion that banks and other financial institutions should analyse and adopt these guidelines in the proper spirit to provide some succor to the stress assets. The committee, therefore, recommend that RBI should advise all Commercial Banks to follow the credit rating system proposed by the Government for assessing the credit risk of infrastructure companies and prescribe risk weight accordingly.

### **Reply of the Government**

1. Department of Financial Services(DFS) (Department of Economic Affairs(DEA)) has informed that Credit Rating Agencies after consulting DEA, Regulators and stakeholders has launched a New Credit Rating System. This has been done to enable investors to take a long-term view while investing in infrastructure. The new Rating system is based on

Expected Loss (EL) model that captures the recovery prospects of the asset under evaluation.

2. According to RBI, Expected Loss (EL) methodology is appropriate for determining the provisioning requirements while Probability of Default (PD) approach (the existing methodology) is appropriate for determining capital requirements.

3. Banks are free to consider the EL based ratings for pricing and other credit decisions but not for determining capital requirements which shall continue to be based on PD based ratings, as per internationally accepted BASEL norms.

[Ministry of Power OMNo.P-6/2018-IPC Dated28/07/2020]

### **Power Purchase Agreement**

#### **Recommendation No. 6**

The Committee note that credit decisions by banks are taken on the basis of the assessment of commercial viability of the loan and extant regulatory norms and guidelines. Further, the norms issued by CERC (Central Electricity Regulatory Commission) regarding capital cost, generation cost and regulation of power tariff are taken into consideration while assessing the viability of the power projects. Power projects involve medium to long-term gestation and given the nature of the project finance, FSAs and PPAs are very crucial for the project. However, the Committee note that for entering into FSA/ Coal linkages, one of the pre- condition stipulated by coal producers is to have PPA and Independent Power Producer has to enter PPA with State Discoms. Discom will not enter into PPA unless the project is nearing completion and rather Discom issue Letter of Intent to power producing companies (Power Purchase Agreement entered only after the completion of minimum of 80 per cent of the project). PPA is usually entered into before 6 months from the date of the commencement of the commercial operation. Based on such Letter of Intent issued by Discoms, coal producing companies such as Coal India Ltd. also issue Letter of Assurance for entering into fuel supply agreement, 6 to 9 months before the date of commencement of commercial operation. The Committee note that the entire process of power plant becoming a reality work in a cyclic manner based on the good intent, trust and assurance of each other. Based on this cycle only, huge investments are done and massive exercise to establish the plants are also undertaken by the all concerned.

This in totality becomes the symbol of collective efforts of public importance. The letter of intent and letter of assurance assume the sanctity of such proportion that on their basis, loans are granted/disbursed and the chain of the events begin. Any rethinking on this have severe repercussions. The Committee are of the opinion that these documents should be given the status of Testaments and be made justiciable so as to ensure that the commitments made by respective Department/agency are honoured and no renegeing is allowed. Any subsequent policy formulation must have in view the commitment made in such letter of intent or letter of assurances. The pool of efforts in this regard cannot work in isolation and will have to work in tandem to see the success. The committee, therefore, strongly recommend that keeping in view the enormity of the efforts and the consequences, any commitment from any side with regard to establishing infrastructure projects like power plant should sincere, honest and transparent without any scope of backtracking so that collective efforts of nation building are taken to logical end.

### **Reply of the Government**

1. Ministry of Coal has informed that as per the New Coal Distribution Policy (NCDP), Letter of Assurances (LoAs) were to be issued by coal producing companies (Subsidiaries of Coal India Limited (CIL)) to the consumers based on the recommendations of the Standing Linkage Committee(Long-Term).
2. In terms of the Presidential Directive (PD) dated 17.02.2012 and subsequent modification dated 17.07.2013, the designated power plants of about 78,000 MW enlisted in the Presidential Directive dated 17.07.2013 which were likely to be commissioned by March, 2015 were eligible for entering into Fuel Supply Agreement (FSA) upon achievement of milestones. However, regular supply of coal would start on submission of long term Power Purchase Agreement (PPA) and achievement of CoD (Commercial Operation date). Subsequently, direction was given for signing of FSAs with the power plants enlisted in the PD dated 17.07.2013 which were commissioned/to be commissioned within March, 2016 and, finally, SHAKTI policy dated 22.05.2017, inter alia stipulated that FSAs may be signed with all the pending LoA holders after ensuring that the plants are commissioned, respective milestones met, all specified conditions of the LoA fulfilled within the specified time frame and are commissioned/to be commissioned by 2022 subject to the condition that nothing adverse has been detected against them.
3. Therefore, the LoAs issued have been honoured by the coal companies and the SHAKTI policy also directs that FSAs shall be signed

with LoA holders subject to fulfillment of certain conditions stipulated above.

4. Central Electricity Authority (CEA) has informed that the Procurers (Distribution Licensees) and the suppliers (Developers) are bound by the terms and conditions of Power Purchase Agreement (PPA) including conditions for termination of PPA. Each case in which attempt is made by any party to terminate PPA on arbitrary grounds will have adverse impact on investment climate for power sector. However, it may be added that such arbitrary action by any of the party is challengeable in appropriate legal forum by the other party.

[Ministry of Power O.MNo.P-6/2018-IPC Dated 28/07/2020]

### **Recommendation No. 7**

The Committee note that there are 34 power plants which have been categorized as “stressed”. The different categories of stressed power plants are (i) plants having PPA and requiring coal; (ii) plants having neither coal- linkage nor PPA; (iii) plants having coal block but the issue of coal block is sub-judice; and (iv) the plants stressed on account of reasons other than coal linkage/block issues. The Committee has been informed that upon cancellation of 204 coal blocks by Supreme Court in September, 2014, coal mines (Special Provision Act, 2015) was notified on 30th March, 2015. Under the provisions of the said Act, 84 coal mines have so far been successfully allocated. Of these coal mines, 58 coal mines have been allocated to power sector while rest have gone to other areas. The Committee has also been informed that with a view to ensure that there is no disruption in the power generation arrangements for coal block allottees, it was decided that coal may be supplied to such plants through a separate MoU route till 31.03.2016 as many of the plants were already commissioned or to be commissioned in 2015-16 and had long- term PPAs. The position was reviewed on expiry of the term, i.e., 31.03.2016 and it was decided that these plants may take the coal being made available through the process of special forward e-auction of coal for power sector. In order to ensure that there is no disruption in coal availability to these plants, the term of MoU with these plants which expired on 31.03.2016, was extended till 30.06.2016 so as to facilitate smooth transaction to the special forward e-auction system of CIL. The Committee note that despite serious attempts made by the Government to make available coal to the power sector, the desired results are not achieved and the sector is starving for fuel. Despite separate MoU route, special forward e-auction, extension of the term of

MoU, there is no improvement in the ground situation. This has seriously hampered not only the growth of the sector, but has also become one of the major contributory factors for pushing the assets into NPA. This is a very serious situation and requires urgent remedial measures. The committee, therefore, recommends that instead of indulging into futile attempts of different kinds exhibiting hollow exercises only, all efforts should be made to display that there is no mismatch between words, action and the result.

### **Reply of the Government**

- i. After the cancellation of 204 coal blocks, Government of India formulated a transparent policy for re-allocation of cancelled coal mines in a fair and transparent method. Government has re-allocated 62 blocks through auction/allotment till date to power sector.
- ii. Based on the request of Ministry of Power (MoP), Ministry of Coal (MoC) vide letter dated 13.04.2016 started separate e-auction window for power sector under which Coal India Limited (CIL) is making arrangements for conduct of special forward e-auction (SFeA) of coal exclusively for power sector on a sustained basis, offering adequate quantities at regular intervals so that coal is made available to such power plants on regular basis. CIL has allocated 27.12 million tonnes of coal through SFeA to the power sector during Apr, 2019 to March, 2020.

The year wise performance of Special Forward eAuction is given as below:

Year	Quantity Offered (in Million Tonnes)	Quantity booked (in Million Tonnes)
2017-18	61.95	28.93
2018-19	39.688	27.14
2019-20	44.045	27.12

- iii. Based on inputs provided by MoP, MoC vide letter dated 08.02.2016 had notified policy guidelines for grant of Bridge Linkage to specified end use plants of Central and State Public Sector Undertakings (Both in Power as well as Non- Power sector) which have been allotted coal mines or blocks. Bridge linkages applications for public sector power projects in prescribed formats have been approved.
- iv. Fuel Linkages under SHAKTI ; Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named

SHAKTI (Scheme for harnessing & allocating koyal transparently in India). Linkages granted under SHAKTI Policy:

- a. Shakti Policy Para B(i): Linkage granted to 23 nos. Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.
- b. Shakti Policy Para B(ii): Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having PPA but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of SHAKTI, the auction has been held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.
- c. Shakti Policy Para B(iii): Bidding held from 5<sup>th</sup> to 7<sup>th</sup> February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49 MT.
- d. Shakti Policy Para B(iv): Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.
- e. Under B(v), aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.
- f. Shakti Policy Para B(viii)(a): Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a) for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

[Ministry of Power O.MNo.P-6/2018-IPC  
Dated 28/07/2020]

### **Recommendation No. 8**

The Committee note that it was apprised during one of the interaction that there is no shortage of coal and the scheme SHAKTI formulated by the Government will take care of coal allocation for all the present and future power plants. The Committee was also informed that there is no power plants which has PPA, but does not have coal linkage. During interaction with independent power producers of 34 stressed power projects, the Committee were apprised that despite allocation of coal linkage, letter of assurance has not been issued even after 3 months. The

Committee expressed its anguish about the manner in which the SHAKTI scheme is being implemented and time is being taken to provide coal to eligible promoters. The Committee has also been apprised that there is no consistency with regard to policy of the coal allocation and e-auction of the coal. This has adversely impacted them. Although, NCDP (New Coal Distribution Policy) envisaged automatic conversion of LOA into FSA upon fulfillment of certain conditions but the CIL, Coal India Limited declined to sign the FSA despite fulfillment of laid down conditions. This is indeed a very serious matter and needs urgent remedial measures by the all concerned. This should not have been allowed to happen as the stakes involved are enormous. There are genuine apprehensions regarding availability and allocation of coal among the power producers. During the recent study visit, the Committee itself found that the availability of coal in one of the NTPC plants is very critical and this is the situation in several other plants of the NTPC as well. This affectively rebuts the claim of the Coal India that there is no shortage of coal in the country. The Committee expect that CIL would focus on the seriousness of the issues instead of making tall claims without any basis. The delay in the implementation of the scheme of SHAKTI should not have happened as it has disastrous entailing effects. The Committee, therefore, recommend that CIL should make every effort to make the available the required quantity of coal to every developer in a time bound manner. Such timeframe for provision of coal to developers be also notified for public information.

### **Reply of the Government**

1. The total receipt (domestic & imported) and consumption of coal by coal based thermal plants in the country during the last four years are asunder:

(Figures in Million Tonnes)

Year	Receipt					Consumption
	Domestic	Imported			Total Receipt	
		For blending purpose	Imported coal based plants	Total Imported		
2016-17	494.8	19.8	46.3	66.1	560.9	574.3
2017-18	538.6	17.0	39.4	56.4	595.0	608.0
2018-19	582.1	21.4	40.3	61.7	643.7	628.9
2019-20	569.5	23.8	45.5	69.2	638.7	622.2

1.1 As can be seen from above, receipt of domestic coal has been increasing except, during the year 2019-20 which showed a minor

decrease. The domestic coal consumption during the year 2019-20 was 577.3 Million Tonnes (MT) against the actual receipt of 569.5 MT from domestic sources while 23.8 MT coal was imported for blending purpose. As reported by Coal India Limited (CIL), availability of domestic coal in the country has improved with opening stock of 75 MT at mines end and 45 MT at Plant end as on 31.03.2020.

12 Based on the generation target, the coal requirement for the plants designed on domestic coal during 2020-21 has been estimated to be about 645 MT. The expected availability of coal from various domestic sources during 2020-21 is about 668 MT against the requirement of 645 MT, which includes 530 MT from CIL, 55 MT from SCCL and 63 MT from captive sources. As the expected availability of domestic coal is more than the requirement during 2020-21, there may be very little requirement of importing coal for blending purpose depending upon cost economics and transportation logistics. In light of this, MoP has requested all the Generating companies (Gencos) [who are importing coal for blending purpose], to make best efforts to replace their imports with domestic coal. At present, the availability of coal stock of 49.31 MT with Thermal Power Plants (TPPs) as on 18.06.2020 which is sufficient to meet requirements of TPPs for about 28 days.

13 Power plants designed on domestic coal are importing coal for blending purposes, considering their cost-economics and to bridge the shortfall in the availability of domestic coal, if any. However, the quantum of import for blending is very less as compared to domestic coal receipt. Further, power plants designed on imported coal, are importing coal to meet their fuel requirement as they are designed to operate on imported coal. Further, import of coal is under Open General License (OGL), and hence, the power utilities import coal considering their cost economics. As per Import substitution Notice of CIL dated 05.02.2019, power utilities were given option for supply of coal under Import substitution to meet their shortfall against Annual Contracted Quantity (ACQ) for FY 2018-19. Subsequently, CIL has issued another notice dated 27.05.2019 regarding import substitution for the year 2019-20 also.

14 However, the Government has been making effort for reducing import of coal for blending purpose and replacing it with domestic coal because coal import entails outgo of scarce foreign exchange. For this, MoP has written to the Gencos to make best efforts to reduce the imported coal with domestic coal for blending purpose. Further, MoP has also requested MoC to establish an electronic portal as e-facilitation centre to facilitate necessary clearances and redressal of issues raised by Gencos which would enable them to replace the import of coal for



blending purpose by the domestic coal. Further, an Inter- Ministerial Committee (IMC) for the purpose of coal import substitution has been constituted under the chairmanship of Additional Secretary (Ministry of Coal).

15 The total nos. of captive coal blocks that have been allocated to the Power Sector are 65 nos. Out of these 65 nos. coal blocks, 03 nos. coal blocks have been surrendered and the total 11 nos. of coal blocks are underproduction.

16 The Government in May, 2016 approved the proposal for allowing flexibility in utilization of domestic coal amongst power generating stations to reduce the cost of power generation through saving in the transportation cost and operating the most efficient plant. The State/Central Gencos have flexibility to utilize their coal in most efficient and cost effective manner in their own power plants as well as by transferring coal to other State Genco/Central Genco/IPP generating stations for generation of cheaper power.

17 Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named SHAKTI (Scheme for harnessing & allocating koyla transparently in India). Linkages granted under SHAKTI Policy:

a. Shakti Policy Para B(i): Linkage granted to 23 nos. Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.

b. Shakti Policy Para B(ii): Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having PPA but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of SHAKTI, the auction has been held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.

c. Shakti Policy Para B(iii): Bidding held from 5<sup>th</sup> to 7<sup>th</sup> February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49 MT.

d. Shakti Policy Para B(iv): Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.

e. Under B(v), aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.

f. Shakti Policy Para B(viii)(a):Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTi B(viii)(a) for the quarter July-September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

18 Thus it may be noted that Government has been making sustained efforts to optimize utilization of available coal resources.

[Ministry of Power O.MNo. P-6/2018-IPC Dated 28/07/2020]

**Comments of the Committee**  
**(Please see Para No. 11 of Chapter – I of the Report)**

**Inter-Ministerial Group on NPAs**

**Recommendation No. 9**

The Committee note that although generation is a delicensed activity, yet role of various agencies of the Government has been clearly outlined in the Electricity Act, 2003. Electricity Act prescribed the constitution of Central Electricity Authority, its functions, duties and power to require statistics and returns. In addition to advice the Government on matters related to National Electricity Policy, it also formulate perspective plan for the development of electricity system, coordinating the activities of planning agencies for optimal utilization of resources to serve the interest of the nation and also to provide reliable and affordable electricity for all the consumers, prescribe technical standards for the construction of electrical plants connectivity to the grid, safety requirements of construction, operational and maintenance of plant and timely completion of schemes and projects for improving the system etc. It is also empowered to carry out any investigation for the purpose of generating, transmitting or developing electricity. In view of the Committee, these are the wide ranging powers which can be exercised to streamline the sector. The absence of licenses for generation of electricity has only provided an opportunity for the developers to eschew an inconsequential formality as sector have to be opened if we want to invite competition, efficiency, transparency and growth. Rest of the activities associated with are very much there and the promotional and regulatory framework have not been tinkered. The responsibility dwells upon the Ministry of Power to ensure that promotional and

regulatory activities are done in an expected manner. They cannot be absolved from their role and responsibility on the ground of the generation being delicensed. The Committee, therefore, recommend that Ministry of Power and its associate bodies should become pro-active in understanding and redressing the woes of the sector and expect the inter-Ministerial group of the Ministry will come out with the specific remedies to the different maladies plaguing the sector and distracting its growth. It is expected that the views/suggestions of the IMG will be realistic, sector friendly and spur the growth of the electricity sector.

### **Reply of the Government**

1. Government of India constituted a High Level Empowered Committee (HLEC) under the Chairmanship of Cabinet Secretary to address the issues of stressed thermal power projects. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM). Subsequently, MoP vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as Appendix -II.

2. The status of 34 stressed thermal power projects analysed by Ministry of Power is as follows:

- i. 14 projects with a total capacity of 16,450 MW have been resolved.
- ii. 13 projects with a total capacity of 16,270 MW are at various stages of resolution.
- iii. 7 projects with a total capacity of 7,410 MW are at very initial stage of construction and are totally stalled. Such projects have either been ordered to be liquidated or heading towards liquidation.

2.1 It may be summed up as follows:

Sl. No.	Status	Nos. of projects	Capacity (MW)	Commissioned (MW)	PPATied (MW)	Fuel tied up(MW)
I	Resolved	14	16,450	15850	10746	13122

II	Likely to be resolved	13	16,270	10269	6817	10654
III	Heading for Liquidation	7	7,410	135	1484.5	971
	Total	34	40,130	26,254	19,047.5	24,747

2.2 Detailed status is enclosed as **Appendix -I**.

3. The following steps have been taken by the Government to resolve the stress in thermal power sector:

- i. After the cancellation of 204 coal blocks, Government of India formulated a transparent policy for re-allocation of cancelled coal mines in a fair and transparent method. Government has re-allocated 62 blocks through auction/allotment till date to power sector.
- ii. Based on the request of Ministry of Power (MoP), Ministry of Coal (MoC) vide letter dated 13.04.2016 started separate e-auction window for power sector under which Coal India Limited (CIL) is making arrangements for conduct of special forward e-auction (SFeA) of coal exclusively for power sector on a sustained basis, offering adequate quantities at regular intervals so that coal is made available to such power plants on regular basis. CIL has allocated 27.12 million tonnes of coal through SFeA to the power sector during Apr, 2019 to March,2020.
- iii. Based on inputs provided by MoP, MoC vide letter dated 08.02.2016 had notified policy guidelines for grant of Bridge Linkage to specified end use plants of Central and State Public Sector Undertakings (Both in Power as well as Non-Power sector) which have been allotted coal mines or blocks. Bridge linkages applications for public sector power projects in prescribed formats have been approved.
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2017 named SHAKTI (Scheme for harnessing & allocating koyla transparently in India). Linkages granted under SHAKTI Policy:

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- c. Shakti Policy Para B(iii): Bidding held from 5<sup>th</sup> to 7<sup>th</sup> February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49MT.
- d. Shakti Policy Para B(iv): Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.
- e. Under B(v), aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.
- f. Shakti Policy Para B(viii)(a): Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a) for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

3.1 Pilot project for procurement of 2500 MW power: In order to address the problem of lack of Power Purchase Agreements (PPAs) in the country, the Ministry of Power had notified a scheme for procurement of 2500 MW on competitive basis for a period of 3 years from the generators with commissioned projects having untied capacity.

- a. 1st Round (2500 MW): Letter of Award (LOA) was issued to all the successful bidders (1900 MW) - PPA signed for 1900MW.

b. 2nd Round (2500 MW): Bid Security for 21 bidders for a total capacity of 6000 MW was received. Bids opened on 07.02.2020. 12 bidders were successful with capacity of 2500 MW. The State of Tamil Nadu has shown interest for procuring 500MW.

3.2 Payment Security Mechanism: Ministry issued an order on 28.06.2019 and subsequent corrigendum thereon 17.07.2019. National & Regional Load Despatch Centres (NLDC & RLDC) have been directed to dispatch power only after it is intimated by the Generating Company and/Distribution Companies that a Letter of Credit (LC) for the desired quantum of power has been opened. This has ensured timely payments by Discoms to the generators.

3.3 In view of the above, it may please be noted that Ministry of Power is taking all the necessary steps to reduce the stress in the power sector. It may be observed that sincere efforts have been made by the Government to make these assets standard by providing all possible assistance to them in terms of proving them options for coal linkage or offer of PPAs through Pilot schemes.

4. As per Section 7 of the Electricity Act, 2003, any generating company can establish, operate and maintain a generating station without obtaining a license/ permission if it complies with the technical standards relating to connectivity with the grid.

4.1 As power generation is a de-licensed activity, decision to set up a power plant is taken by the concerned developer based on his /her assessment of market conditions, demand of power in future, finance options, viability of the project etc. In order to finance the project, a Financial Agreement is signed between the developer and the lender based on mutual negotiation and understanding, and the risk is entirely borne by the developers and the lenders. Lenders normally deploy a Project Engineer to assess and evaluate the project financing costs based on the extant lending norms of the Banks/Financial Institutions etc. Ministry of Power has no role to play in any kind of financial tie-up of such power generation projects.

4.2 There are extant norms of Central Electricity Regulatory Commission (CERC) for the Operation & Maintenance (O&M) expenses already in place on per MW basis to check whether the developer is gold plating O&M expenses. It is also mentioned that the bankers appoint a

Lenders' Financial Advisor (LFA) and Lenders' Engineer for a particular project to monitor the cash flow of the project.

4.3 The sectoral issues as identified by HLEC as the causes of stress have been resolved by different policy interventions taken by the Government.

4.4 The details of resolution process of the stressed assets through Insolvency & Bankruptcy Code (IBC) and through National Company Law Tribunal (NCLT) have been given at **Appendix -III** to this Note. It may be seen from Appendix -III that the resolution of a stressed projects is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT. The process of resolution by lenders is overseen by Department of Financial Services (DFS) which is the administrative Ministry for all Financial Institutions/ Banks. The frame-work and role for NCLT come under the jurisdiction of Ministry of Corporate Affairs (MCA). Thus, it may be seen that project developers/ lenders can seek remedy in case of Non-Performing Asset under the above two resolution processes. It is pertinent to note that Ministry of Power has no role in the aforesaid process of resolution of stressed assets through IBC/NCLT.

[Ministry of Power O.MNo.P-6/2018-IPC Dated 28/07/2020]

**Comments of the Committee**  
**(Please see Para No. 14 of Chapter – I of the Report)**

### **National Electricity Policy**

#### **Recommendation No. 11**

The Committee note that Electricity Act, 2003 mandated the Government to prepare a National Electricity Policy in consultation with the all concerned for the development of power system based on optimal utilization of resources such as coal, natural gas, nuclear substances, hydro and sources of renewable energy. The Central Government notified the National Electricity Policy on 10th February, 2015 after taking into account the views of the State Governments, Central Electricity Authority, Central Electricity Regulatory Commission and other stake holders. The policy aims at accelerated development of power sector, supplying electricity to all areas and protecting interests of consumers and other stake holders. It also provides for increasing of per capita availability of electricity, financial turn round and commercial viability of electricity sector. The policy also seeks to address the issues of financing of sector programmes including private sector participation and ushering in competition aimed at consumer benefits. The Committee

observe that power sector in the country has developed in such a manner which is not balanced and wherein coordinated approach is missing. Delicensing of generation led to spurt in generation activities. However the other essential ingredients associated with it have not been given due attention. A general tendency is observed where the sanctity of PPAs are being questioned. This kind of move is fraught with ramification which is injurious to entire sector. Long-term PPAs are not being signed, absence and inadequacy of fuel linkages has added woes to the sector. All these factors have led to stress of the sector and it is reeling under such cyclical and interlinked problems that if not addressed in a holistic, honest and transparent manner, it may lead to ominous portend for the survival of the sector. Other areas which the Electricity Policy have not taken into account are the issues of various clearances, land acquisition, continuance of old and inefficient plants, instability in FSA policies, lack of unanimity on the common issue of 'change in law', regulatory uncertainties and delay, etc. The Committee feel that these are the basic issues for the balanced and efficient growth of power sector which need to be addressed at policy level. As it is quite a long period since the Electricity Policy was last announced, the Committee, therefore, recommend that in view of the prevailing dichotomy, self-defeating situation in the power sector, National Electricity Policy need to be revisited without taken into account the ground realities to bring suitable amendments so as to address the problems of the electricity sector.

### **Reply of the Government**

1. In line with the provisions of Section 3 (1) of the Electricity Act, the Government of India had notified the National Electricity Policy on 12th February 2005. The objectives of the National Electricity Policy, inter alia are supply of reliable and quality power of specified standards in an efficient manner and at reasonable rates, financial turnaround and commercial viability of the Electricity Sector, protection of consumers interest etc.

Section 3. (National Electricity Policy and Plan) ---

(1) The Central Government shall, from time to time, prepare the National Electricity Policy and tariff policy, in consultation with the State Governments and the Authority for development of the power system based on optimal utilisation of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy.

2. Further, Section 3 (3) of the Electricity Act provides that the Central Government may, from time to time, in consultation with the



State Governments and the Central Electricity Authority, review or revise, the National Electricity Policy and Tariff policy. The Working Group on Power for 12th Plan had also made recommendations for amendments in National Electricity Policy.

“Section 3 (3) of the Electricity Act”,

“The Central Government may, from time to time, in consultation with the State Governments and the Authority, review or revise, the National Electricity Policy and tariff policy referred to in sub-section(1).”

3. Draft National Electricity Policy is under preparation which shall be finalized after considering due process.

[Ministry of Power O.MNo. P-6/2018-IPC Dated28/07/2020]

### **Role of RBI**

#### **Recommendation No. 12**

The Committee note that RBI has issued guidelines for Strategic Debt Restructuring Scheme. Under the scheme, for viability accounts facing financial difficulties, lenders may consider restructuring the debt. RBI has also formulated the Scheme for Sustainable Structuring of Stressed Assets (S4A) an optional framework for the resolution of large stressed accounts. The S4A envisages determination of sustainable level for a stressed borrower and bifurcation of outstanding debt into sustainable debt and equity/ quasi equity instruments which are expected to provide upside to the lenders when the borrowers turn-round. In view of the Committee, the scheme of the RBI seems to be appropriate to help the sector but in reality the situation is not as real as has been attempted to. During interaction with various IPPs regarding the reasons for NPA and financing of sector, the Committee were apprised that NPA in power sector has been abetted by high rate of interest by finances, denial of variables of interest to developers, cost escalation due to extraneous reasons like court cases, delayed decision by lending consortium, lack of working capital, etc. These financial issues are from commonplace in nature but have the potential to affect the viability of the project. No extraordinary measures are required to address these problems which if resolved have the potential to affect a turn-around in the project. The Committee, therefore, recommend that the revival schemes of the RBI or the Government should be realistic and not symbolic. Every effort should be made to see that projects with huge investment do not become NPA for want of marginal financial infusion or adjustment in the way of

making working capital available for passing on the interest variable to the stressed asset.

### **Reply of the Government**

1. RBI vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 – flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.
2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is ultra vires Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.
3. Thereafter, RBI vide its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:
  - a. Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
  - b. Inter-Creditor Agreement (ICA): In cases where RP is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the RP.
  - c. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

- d. An RP shall be deemed to be ‘implemented’ only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.
- e. Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions asunder:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

- f. Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.
- g. Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power O.MNo. P-6/2018-IPC Dated28/07/2020]

**Comments of the Committee**  
**(Please see Para No. 20 of Chapter – I of the Report)**

**Strategic Debt Restructuring**

**Recommendation No. 13**

The Committee note that the major reasons for stress in most of the thermal power projects have been attributed to (i) non-availability of Fuel (a) Cancellation of coal block, (b) projects set up without linkage, (ii) lack of enough PPA by states, (iii) inability of the promoter to infuse the equity and working capital, (iv) contractual/ tariff related disputes, (v) issues related to banks/ financial institutions (FIs), (vi) delay in project implementations leading to cost overrun and (vii) aggressive bidding by developers in PPA. Once the project is categorized as NPA, remedial measures of different efficacy follow. One of the remedies available is Strategic Debt Restructuring Scheme. Under this scheme restructuring of accounts has been envisaged by change in ownership where borrowers’ companies are not able to come out of stress due to

operational/ managerial inefficiencies despite substantial sacrifices made by the lending banks. The Joint Lender Forum review the account and examine whether the account will be viable by affecting the change in ownership. It also envisages that the new promoter should not be a person/ entity/ subsidiary/ associate etc. from the existing promoter or group and the bank should clearly establish that the acquirer does not belong to the existing promoter group. In case efforts under SDR do not yield desired results, the banks may refer the case to NCLT. The SDR is executed only in cases where change in ownership is likely to improve the economic value of loan asset and the prospects of the recovery of their dues. It provides lenders with enhanced capabilities to initiate change in ownership in accounts which failed to achieve projected viability milestones. The basic object of the restructuring is to preserve economic value of units. The Committee find that Strategic Debt Restructuring Scheme is not efficacious enough as it does not resolve the reasons which have made the project NPA. The Committee have been informed that restructuring is considered only after technical and economic viability is established through a TEV study by an independent consultant. Assumptions like confirm sourcing of fuel at certain rate and selling of generated power at certain price are considered in the study. Operations of the restructured plans can be on expected lines subject to compliance of assumptions and other conditions including timely fixation of tariff by the regulator, availability of schedule for drawl of power and adherence to PPA. The Committee observe that even after SDR, the factors which are responsible for stress remain unscathed. There is no guarantee that with the substitution of ownership there will be experts, technocrats with required operational expertise and managerial efficiency which will certainly bring a turn-around. Therefore, exercise under SDR is based on assumptions as it is very difficult to pinpoint operational/ managerial inefficiencies because the factors which have been enumerated as reasons for NPA are also beyond managerial control and management. The Committee, therefore, strongly recommend that the guidelines regarding SDR should be reviewed and a pragmatic and genuine mechanism be explored instead of changing the management. Change in management should be considered only after it has been established with certainty that the negligence on the part of the management is the sole reason for the stressed state of affairs of the project.

### **Reply of the Government**

1. RBI vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 – flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along

with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is ultra vires Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.

3. Thereafter, RBI vide its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

a. Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b. Inter-Creditor Agreement (ICA): In cases where RP is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the RP.

c. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d. An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e. Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g. Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power O.MNo. P-6/2018-IPC Dated 28/07/2020]

## **Sufficient Coal to Power Plants**

### **Recommendation No. 14**

The Committee note that the major reason for stress of most of the said 34 power projects has been cited as lack of adequate amount of Fuel Supply Agreement. The Committee further note that as per the information furnished by the Ministry of Power, a substantial power project capacity is yet to be provided with the coal linkages. The Ministry of Coal has stated that they have started SHAKTI Scheme under which many stressed power projects have been allocated coal linkages. Nonetheless, there are still power projects which do not have FSA for various reasons including not having Long-term Power Purchase Agreements (PPA). The developers of the stressed power project, which are having FSA, are complaining that they have not been provided/contracted with the adequate amount of coal to run the power plants at 85% PLF. Further, at various occasions they have been provided inferior than contracted quality of coal due to various reasons leading to further gap in the coal requirement and supply. Though the Coal India have stated that they have started to bill as per the report of Independent Third Party Audit of Coal supplied, the developers have the complain that this mechanism provided for refund of quality gap of coal only and not the royalty and taxes being paid. Also, due to lesser calorific value of the inferior coal being supplied they are not able to generate the contracted/promised amount of power for the Discoms, making them

liable for penalty under the Power Purchase Agreement. The Committee after having discussions with all the authorities concerned/stakeholders in the matter, have found out that the root cause of this problem is the absence of any platform for coordination among the authorities and power developers. Most of the matters will be resolved easily if all the concerned stakeholders sit together to discuss the issues/problems being faced, at regular intervals. The Ministry of Coal have categorically stated that they are having adequate coal reserves and excavation capacity to fully cater to the need of all the power plants of the country. In view of the above, the Committee strongly recommend the following:

The power plants should be provided enough coal to enable them to run at 85% of PLF, if they desire so.

The committee while appreciating the step of Coal India Ltd. to bill as per the report of Independent Third Party, recommend that the issue of proportionate reduction in royalty and taxes may also be looked into.

The committee through are of the view that domestic coal should be used as much as possible for being economical, nonetheless, they desire that if any power plants find it convenient to use certain percentage of imported coal say 15-20% and yet remains economically viable, than they should be allowed to do so. The Committee desire that the Government should not put any restriction or impediments in import of coal for such power projects if these projects desire to import coal in a transparent manner.

### **Reply of the Government**

1. Ministry of Coal has informed that as per coal consumption norms issued by Central Electricity Authority (CEA), Annual Contracted Quantity (ACQ) for thermal power plants is calculated at 85% PLF. However, for pre- 2009 plants, the ACQ has been fixed based on their consumption pattern of last 5 years. Coal companies supply coal to Thermal power plants (TPPs) with minimum commitment level (Trigger level). The trigger level for pre-2009 plants is 90% of ACQ while for post-2009 plants, it is 75% continuing since 2016-17 based on the decision of the Cabinet Committee on Economic Affairs (CCEA) The minimum commitment level does not ensure operation of the power plants at 85% PLF. However, CIL is supplying coal to many power plants more than the minimum commitment level. In some cases, coal supply is also affected due to production issue in mines, less supply of rakes by Railways as well as less off take of coal by power plants due to low power demand, non-payment of dues, unloading constraints etc.

2. To bridge the shortfall in the availability of domestic coal and considering their cost-economics, the power utilities are importing coal for blending purposes. Further, the power plants designed on imported coal, are importing coal to meet their requirement of fuel.

3. The total receipt (domestic & imported) and consumption of coal by coal based thermal plants in the country during the last four years are asunder:

(Figures in Million Tonnes)

Year	Receipt					Consumption
	Domestic	Imported			Total Receipt	
		For blending purpose	Imported coal based plants	Total Imported		
2016-17	494.8	19.8	46.3	66.1	560.9	574.3
2017-18	538.6	17.0	39.4	56.4	595.0	608.0
2018-19	582.1	21.4	40.3	61.7	643.7	628.9
2019-20	569.5	23.8	45.5	69.2	638.7	622.2

3.1 As can be seen from above, receipt of domestic coal has been increasing except, during the year 2019-20 which showed a minor decrease. The domestic coal consumption during the year 2019-20 was 577.3 Million Tonnes (MT) against the actual receipt of 569.5 MT from domestic sources while 23.8 MT coal was imported for blending purpose. As reported by Coal India Limited (CIL), availability of domestic coal in the country has improved with opening stock of 75 MT at mines end and 45 MT at Plant end as on 31.03.2020.

3.2 Based on the generation target, the coal requirement for the plants designed on domestic coal during 2020-21 has been estimated to be about 645 MT. The expected availability of coal from various domestic sources during 2020-21 is about 668 MT against the requirement of 645 MT, which includes 550 MT from CIL, 55 MT from The Singareni Coal Collieries Limited (SCCL) and 63 MT from captive sources. As the expected availability of domestic coal is more than the requirement during 2020-21, there may be very little requirement of importing coal for blending purpose depending upon cost economics and transportation logistics. In light of this, MoP has requested all the Generating companies (Gencos) [who are importing coal for blending purpose], to make best efforts to replace their imports with domestic coal. At present, the



availability of coal stock of 49.31 MT with Thermal Power Plants (TPPs) as on 18.06.2020 which is sufficient to meet requirements of TPPs for about 28 days.

3.3 Power plants designed on domestic coal are importing coal for blending purposes, considering their cost-economics and to bridge the shortfall in the availability of domestic coal, if any. However, the quantum of import for blending is very less as compared to domestic coal receipt. Further, power plants designed on imported coal, are importing coal to meet their fuel requirement as they are designed to operate on imported coal. Further, import of coal is under Open General License (OGL), and hence, the power utilities import coal considering their cost economics. As per Import substitution Notice of CIL dated 05.02.2019, power utilities were given option for supply of coal under Import substitution to meet their shortfall against Annual Contracted Quantity (ACQ) for FY 2018-19. Subsequently, CIL has issued another notice dated 27.05.2019 regarding import substitution for the year 2019-20also.

3.4 However, the Government has been making effort for reducing import of coal for blending purpose and replacing it with domestic coal because coal import entails outgo of scarce foreign exchange. For this, MoP has written to the Gencos to make best efforts to reduce the imported coal with domestic coal for blending purpose. Further, MOP has also requested MoC to establish an electronic portal as e-facilitation centre to facilitate necessary clearances and redressal of issues raised by Gencos which would enable them to replace the import of coal for blending purpose by the domestic coal. Further, an Inter- Ministerial Committee (IMC)for the purpose of coalim port substitution has been constituted under the chairmanship of Additional Secretary (Ministry of Coal).

3.5 The total nos. of captive coal blocks that have been allocated to the Power Sector are 65 nos. Out of these 65 nos. coal blocks, 03 nos. coal blocks have been surrendered and the total 11 nos. of coal blocks are underproduction.

3.6 The Government in May, 2016 approved the proposal for allowing flexibility in utilization of domestic coal amongst power generating stations to reduce the cost of power generation through saving in the transportation cost and operating the most efficient plant. The State/Central Gencos have flexibility to utilize their coal in most

efficient and cost effective manner in their own power plants as well as by transferring coal to other State Genco/Central Genco/IPP generating stations for generation of cheaper power.

3.7 In addition to the monitoring mechanism available at coal companies and CIL, coal supplies to Power utility sector is monitored regularly by an Inter- Ministerial Sub-Group comprising representatives of Ministry of Power, Ministry of coal and Ministry of Railways Constituted by the Infrastructure Review Committee of Cabinet Secretariat. This Sub-Group takes various operational decisions for meeting any contingent situations relating to Power sector including critical coal stock position for power plants.

[Ministry of Power O.MNo. P-6/2018-IPC Dated 28/07/2020]

### **Placing out of old power plants**

#### **Recommendation No. 15**

The Committee observe that the country has come a long way from a power starving to a power sufficient country as far as power generation capacity is concerned. Till recent times, there was acute shortage of power in the country. Considering the yawning gap between demand and supply of power due to ever-growing power demand of the country, private players started to come in a big way, leading to a massive capacity addition of 99,209.5 MW against the target of 88,537 MW during the 12th Five Year Plan period viz. 2012-2017. During the said period, the private sector alone contributed 53,660.5 MW in thermal power generation. This mammoth generation capacity addition in a short span provided a much greater power generation capacity base than the actual power demand, forcing many power plants to run at much lower Plant Load Factor (PLF) and even made some of them redundant. During the same period, a low industrial powers demands due to sluggishness in the economy of the country added fuel to the fire. Many power projects, which were planned and initiated in anticipation of growing power demand, started showing signs of stress due to a sudden change in power demand and supply scenario of the country. The Committee feel that the present scenario of being 'power surplus' is not true. There are crores of households in the country which do not have electricity access. The per capita electricity consumption of the country is nowhere as compared that to the developed nations. Discoms generally under-supply power by preferring power outages to procure costly electricity. However, the Committee are sanguine that the economy of the country

may gain momentum in the coming years consequently, the power demand from industrial side is also bound to grow. In the supply side, there are many power plants in the country which have long ago outlived their expected life, and there is hardly any fresh proposal for installation of new thermal power project. During the examination of the subject, the Committee were apprised that despite all the upcoming renewable energy, the thermal power will remain the mainstay of the power generation in the country due to various reasons. Considering all this, the Committee believe that the present crisis of low demand-high supply is transient in nature and may be resolved to a great extent if effective and timely interventions are made. The Committee, therefore strongly recommend that the Government should make efforts to boost electricity demand in the country as the per- capita electricity consumption in the country is still very low and the mission to provide 24\*7 electricity supply to all household, is yet to be accomplished. Simultaneously, the Government should expedite the phasing out process of the old power plants which have already outlived their expected life higher than prescribed emission rate with no plan for their Renovation & Modernization. As these power plants ultimately have to be phased out sooner or later, expediting this process will greatly help in making the new but stressed power projects become standard assets. The Committee, therefore, recommend that the Government should plan new thermal power projects and phasing out of old plants in such a manner that the resources are optimally utilized, benefitting not only the power sector but the banking sector too.

### **Reply of the Government**

1. Government of India has taken a joint initiative with all the States/UTs for providing “24x7 Power for All” to all households, industrial & commercial consumers and adequate supply of power to agricultural consumers as per State policy. All the State Governments and Union Territories have signed the “24 x 7 Power for All” document. In addition, Government of India supplements the efforts of the State through its schemes including DeenDayal Upadhyaya Gram Jyoti Yojana (DDUGJY); and Integrated Power Development Scheme(IPDS).

2. Further, Government of India has launched Pradhan Mantri Sahaj Bijli Har Ghar Yojana –“Saubhagya” with the objective to achieve universal household electrification by providing last mile connectivity and electricity connections to all households in rural and all poor households in urban areas. It has achieved 100%electrification.

3. Electricity is concurrent subject. However, Central Government is supporting States in strengthening of their transmission

and distribution network through various Central Government funded schemes.

4. Central Electricity Authority (CEA) has informed that as per the National Electricity Plan, 2018 a coal based capacity of 22,716 MW (5,927 MW + 16,789 MW) has been considered for retirement during 2017-22. This is based upon the assessment made by CEA, which consists of 5,927 MW of old and inefficient units along with a coal based capacity of 16,789 MW which doesn't have space for installation of FGD (Flu Gas Desulphurization) system to curb SO<sub>x</sub> emissions as per the new environmental norms.

5. All these measures would improve the consumption of electricity in the country.

[Ministry of Power O.MNo. P-6/2018-IPC Dated 28/07/2020]

### **CHAPTER-III**

**OBSERVATION/RECOMMENDATION WHICH THE COMMITTEE DO NOT  
DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY**

**-NIL-**

## **CHAPTER-IV**

### **OBSERVATION/RECOMMENDATION IN RESPECT OF WHICH THE REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION**

#### **Regulatory Issues**

##### **Recommendation No. 10**

The Committee note that Ministry of Power has made attempts to facilitate the resolution of issues concerning stress in power sector. Several meeting have taken place from July, 2015 onwards with lenders and others but nothing concrete has come out so far. The Committee feel that in addition to financial matters, stress in the sector is also caused by various operational/ commercial/ regulatory issues. Regulatory matters keep on pending for years without any decision. Even the decisions of the regulatory bodies regarding change in law are not honoured by Discoms and various regulators interpret change in law differently leading to the confusion in the sector. Any situation arising out of the change in law should be uniform all across and if possible be kept out of the purview of the regulators. The Committee are aware that this is a Concurrent Subject and generation is a delicensed activity, but within these limitations some uniform mechanism will have to be explored and established to make the sector stable. The Committee, therefore, recommend that appropriate steps should be taken to ensure that there should be consistency and uniformity with regard to orders emanating from the status of change in law. Provisions should also be made for certain percentage of payments of regulatory dues to be paid by Discoms in case the orders of regulators are being taken to APTEL/higher judiciary for their consideration and decision.

#### **Reply of the Government**

Regarding Change-in-Law, the Tariff Policy notified by Central Government on 28.01.2016 at Para 6.2.4 provides that after the award of bids, if there is any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, the same may be treated as "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through subject to approval of Appropriate Commission.

In regard to uniformity of Decisions, the Regulatory orders regarding Change in Law mainly depend on provisions in the PPA as also on the interpretation of these provisions. The Electricity Act has not envisaged a hierarchical relationship between the Central Electricity Regulatory Commission and the State/ Joint Electricity Regulatory Commissions. State Electricity Regulatory Commissions (SERCs)/ Joint Electricity Regulatory Commissions (JERCs) may provide their own interpretation. However, aggrieved parties are free to approach the Appellate Tribunal for Electricity (APTEL)/ Supreme Court challenging the decision of the SERC/ JERC as the case may be. However, the Orders of APTEL/ Supreme Court are applicable uniformly across the jurisdictions of all SERCs/ JERCs. It is pertinent to mention that a number of cases regarding "Change-in-Law" have been decided by APTEL and they will be uniformly applicable to all.

As regards recommendation that certain percentage of payment should be made when order is challenged in higher judicial forum, it may be noted that, the Electricity Act does not envisage any provision for payment of certain percentage of regulatory dues at the time of filing of appeal against the Order of the Regulatory Commission, such provision may have to be made in PPA.

Ministry of Power vide letter dated 27.08.2018 has issued following directions to Central Electricity Regulatory Commission under section 107 of the Electricity Act:

(i) Any change in domestic duties, levies, cess and taxes imposed by Central Government, State Governments/Union Territories or by any Government instrumentality leading to corresponding changes in the cost, may be treated as "Change in Law" and may unless provided otherwise in the PPA, be allowed as pass through

(ii) Central Commission will only determine the per unit impact of such change in domestic duties, levies, cess and taxes, which will be passed on.

(iii) A draft Order for determination of per unit impact under change in law shall be circulated by Central Commission to all the States/Beneficiary on 14<sup>th</sup> Day of filing of petition. Any objection/representation shall be submitted by them within 21 days of filing of petition.

(iv) The order for pass through giving the calculation for per unit impact will be issued within 30 days of filing of petition.

(v) The impact of such Change in law shall be effective from the date of change in law.

(vi) Where CERC has already passed an order to allow pass through of changes in domestic duties, levies, cess and taxes in any case under Change-in-law, this will apply to all cases ipso facto and no additional petition would need to be filed in this regard.

[Ministry of Power O.MNo.P-6/2018-IPC Dated28/07/2020]

**Comments of the Committee**

**(Please see Para No. 17 of Chapter - I of the Report)**



**CHAPTER-V**

OBSERVATION/RECOMMENDATION IN RESPECT OF WHICH THE FINAL  
REPLY OF THE GOVERNMENT IS STILL AWAITED

- Nil -

**New Delhi  
18<sup>th</sup> March, 2021  
Phalguna 27, 1942 (Saka)**

**Rajiv Ranjan Singh *alias* Lalan Singh,  
Chairperson,  
Standing Committee on Energy**

**APPENDIX -I**

**Status of the Implementation of Cabinet Committee on Economic Affairs(CCEA )Decision vide OM dated 08.03.2019**

Para No.	Action	Status
2	Amendments to be made in the SHAKTI Policy issued vide MoC letter no. 23011/15/2016-CPD/CLD dated 22.05.2017:	MoC vide OM dated 25.03.2019 has issued the amendments in SHAKTI Policy, 2017.
2.1	The following clause is to be added after clause B(vii) of SHAKTI policy:	
	<i>B(viii): Notwithstanding anything in the foregoing paras, it is further provided as follows:</i>	Added
a)	<i>“All such power plants including private generators which do not have PPAs, shall be allowed Coal linkage under B(iii) and B(iv) of Shakti Policy for a period of minimum 3 months upto a maximum of 1 year, provided further that the power generated through that linkage is sold in Day Ahead Market (DAM) through power exchanges or in short term through a transparent bidding process through Discovery of Efficient Energy Price (DEEP) portal. A methodology in this regard shall be formulated by Ministry of Power in consultation with Ministry of Coal.”</i>	MoC vide OM dated 25.03.2019 has issued the amendments in SHAKTI Policy, 2017. MoP vide OM dated 02.12.2019 issued the methodology for allocation of coal as per the provision of para B(viii)(a) covering para B(iii) of Shakti. Bidding was held on 19.03.2020 and a total quantity of 1.34 MT coal was allocated. For 2nd round auction for the quarter July-September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.
b)	<i>A generator which terminates PPA in case of default in payment by the DISCOM, may be allowed to use existing linkage coal for sale of power through short-term PPAs using DEEP portal or power exchange for a period of maximum 2 years or until they find another buyer of</i>	Adequate Safeguards issued on 30.08.2019.

	<i>power under long/medium term PPA whichever is earlier. Adequate safeguards to be put in place.”</i>	
c)	<i>“The provision of para B(v) of Shakti Policy above shall also be applicable in cases where the nodal agency designated by Ministry of Power aggregates/ procures the power requirement for a group of states even without requisition from such states.”</i>	PFC has been designated as nodal agency. A linkage of 10 MT has been allocated.
d)	<i>“Central and State generating companies can act as an aggregator of power of such stressed power assets and procure it through transparent bidding process and offer that power to the DISCOM against their existing PPAs to such DISCOMS, till such time their own plants get commissioned. It is proposed that Central and State generating companies may be allowed to use the existing unutilized Bridge Linkages for such stressed power assets provided they meet other parameters of tolling guidelines including competitive bidding”</i>	NTPC vide letter dated 04.12.2019 has informed that in response to NTPC’s letter for procurement of power from stressed assets, so far only one State has given its requirement/ initial consent. The final acceptance will be subject to discovery of acceptable rates through bidding.  NTPC is following up with other States so that the total requirements are large enough to attract competitive rates. The process for issue of tenders has also been taken up in parallel.
e)	<i>“In all cases where provisions of B(viii)(a)(b)(c) and (d) above are utilized, net surplus after meeting operating expenses generated in this manner shall be entirely used for servicing debt in the first place. MoP will work out in consultation with DFS – a mechanism to ensure this.”</i>	The mechanism to ensure that net surplus generated to be used for debt servicing in the first place has been issued on 05.08.2019. Corrigendum issued on 20.08.2019.
2.2	Following is to be added at the end of first para of B(ii) of Shakti Policy, after the words “with PPAs”:	Added
(i)	<i>The power plants which were having valid already concluded Long Term PPA, based on domestic coal on or before 17.05.2017 and who could not participate in the</i>	<ul style="list-style-type: none"> <li>The bidding held.</li> </ul>

	<i>linkage auctions under SHAKTI B(ii) due to any reason, may be allowed to participate in the B(ii) auctions of SHAKTI scheme.</i>	
(ii)	<i>Bidders who have already participated in SHAKTI B(ii) auctions and could not secure linkage for the full ACQ, may obtain the linkage for the balance quantity also by participating in future auctions at a later stage under B(ii) after benchmarking discount.</i>	
2.3	Following is to be added at the end of paraB(iii) of Shakti Policy, after the words “auction process”: “ <i>Such auctions/ bids shall be held at regular intervals</i> ”.	MoP vide OM dated 02.12.2019 issued the methodology for allocation of coal as per the provision of paraB(viii)(a) covering para B(iii) of Shakti.  As per the methodology, auctions shall be carried out every quarter. An annual calendar shall be published on Coal Companies website showing the months in which the auctions will be held.
3	<b>Other Approvals:</b>	
3.1	Approval with regard to increase in quantity of coal for e-Auction for power sector: Ministry of Coal may earmark more coal for power sector under special forward e-auction by reducing the equivalent quantity from the spot e auction. The Coal India Ltd. may earmark at least 50 percent of the total coal meant for e-auction (including spot auction and special forward e- auction) for power. The increase in supply of coal for forward e-auction will be in addition to regular requirement of linkage coal for the power sector and the requirements of other sectors.	MoC vide OM dated 25.03.2019 has issued the order.  CIL has allocated 27.12 MT of coal under Special Forward e- Auction (SFeA) during Apr,2019 to March,2020.

3.2	<p>Approval with regard to non-lapsing of short supplies of coal: If the power plant fulfills its obligations limited to making advance payments as due to coal companies, payments to Indian Railways as due and making arrangements for unloading of the rakes at its plants, then, any short supply for that month of coal, either on account of short supply of coal in the coal company or on account of unavailability of rakes, may not lapse and be carried over (without current limitations of 5% or same quarter) to the subsequent months upto a maximum period of 3 months. In this regard, a suitable methodology shall be evolved for implementation.</p>	<p>The methodology has been issued on 19.08.2019.</p> <p>CIL vide letter dated 18.09.2019 has circulated the Standard Operating Procedure (SoP), jointly prepared by CIL &amp; Railways.</p>
3.3	<p>Approval with regard to ACQ based on efficiency: ACQ per MW entitlements for all thermal power plants, irrespective of their age or technical parameters, shall be calculated based on Normative Station Heat Rate with upper ceiling of 2600 kcal/kwh.</p>	<p>CEA has issued new coal consumption norms on 27.03.2019 w.e.f.01.04.2019.</p> <p>CIL has revised the ACQ entitlements for plants having SHR more than 2600 kCal/kWh on 06.09.2019.</p>
3.4	<p>Approval with regard to mandatory payment of Late Payment Surcharge (LPS): Ministry of Power may engage with the Regulators to ensure that LPS is paid in case of delay in payment by DISCOMs as per the provisions of PPA. Appropriate Regulatory Commissions may ensure compliance.</p>	<p>MoP vide letter dated 25.03.2019 has requested CERC/ Forum of Regulators to ensure that the decision of the Government is implemented.</p>

3.5	<p>Approval with regard to cancellation of PPA/FSA/Transmission connectivity/Environmental Clearance(EC)/Forest Clearance (FC)/Water etc.: DISCOMS, CIL, Power Grid Corporation of India Limited (PGCIL), Ministry of Environment and Forests, and appropriate Governments may be advised not to cancel PPA, FSA, transmission connectivity, EC/FC, and all other approvals including water, even if the project is referred to NCLT or is acquired by another entity subject to the provisions of the contracted PPA and/ or applicable rules. All clearances may be linked to the plant and not to the promoter.</p>	<p>MoP vide OM dated 04.06.2019 has issued an Advisory letters to the States, (PGCIL) and Ministry of Environment, Forest and Climate Change(MoEF&amp;CC).</p>
3.6	<p>Approval with regard to cancellation of PPA for non-compliance of Commercial Operation Date (COD): If there is any delay in the commissioning of a project for reasons not attributable to the generator, the DISCOMS may be advised not to cancel those PPAs. The PPA may be kept on hold for a certain period, so as to enable removal of impediments in the execution of the project. In the meantime, power can be procured through the mechanism suggested in previous proposals.</p>	<p>MoP vide OM dated 24.04.2019 has issued an advisory to all the states requesting them to convey the decision of the Govt. regarding approval with regard to cancellation of PPA for non-compliance of COD, to their Discoms.</p>

**APPENDIX -II****STATUS OF 34 STRESSED THERMAL POWER PROJECTS**

<b>S. No.</b>	<b>Name of the Project</b>	<b>State</b>	<b>Capacity</b>	<b>Commi ssioned</b>	<b>PPA Tied</b>	<b>Fuel Tied</b>
<b>I</b>	<b>Projects Resolved</b>					
1	DVC Raghunathpur	West Bengal	1200	1200	654	1200
2	KantiBijliUtpadan Nigam Ltd-NTPC	Bihar	390	390	390	390
3	Adani Power Maharashtra Limited	Maharashtra	3300	3300	3300	3300
4	Adhunik Power Limited	Jharkhand	540	540	354	540
5	GMR Warora Energy Limited	Maharashtra	600	600	600	600
6	DB Power Limited	Chhattisgarh	1200	1200	576	600
7	Korba West Power Company Ltd.	Chhattisgarh	600	600	30	600
8	Lanco/Anpara	UP	1200	1200	1000	1200
9	GMR Chhattisgarh	Chhattisgarh	1370	1370	0	0
10	SKS Power Ltd.	Chhattisgarh	1200	600	330	850
11	Jaypee Bina MP	MP	500	500	350	350
12	JaypeeNigrie	MP	1320	1320	495	660
13	GMR Kamalanga Limited	Odisha	1050	1050	885	1050
14	Prayagraj Power Gen. Corp. Ltd.	UP	1980	1980	1782	1782
	<b>Total</b>		<b>16450</b>	<b>15850</b>	<b>10746</b>	<b>13122</b>
<b>II</b>	<b>Projects likely to be resolved/ can be resolved (under NLCT or outside)</b>					
1	RKM Powergen Limited	Chhattisgarh	1440	1440	1293	900
2	Essar Power Mahan Limited	MP	1200	1200	240	0
3	Rattan India Power Limited -Nashik	Maharashtra	1350	1350	0	986
4	Athena Chhattisgarh Power Limited	Chhattisgarh	1200	0	0	600
5	Coastal Energen Pvt. Ltd.	Tamil Nadu	1200	1200	558	1200
6	GVK Goindwal Sahib Power Plant	Punjab	540	540	540	335
7	IndBarathUtkal Limited	Odisha	700	339	584	616
8	Jindal India Thermal Power Ltd.	Odisha	1200	1200	903	600
9	Jhabua Power Ltd (Avantha)	Madhya Pradesh	600	600	425	600
10	KSK Mahanadi Power Co. Ltd.	Chhattisgarh	3600	1800	2274	1800
11	LancoAmarkantak Power Ltd.	Chhattisgarh	1320	0	0	1320
12	LancoVidarbha Power Limited	Maharashtra	1320	0	0	1097
13	Simhapuri Energy Limited	Andhra Pradesh	600	600	0	600

	<b>Total</b>		<b>16270</b>	<b>10269</b>	<b>6817</b>	<b>10654</b>
<b>III</b>	<b>Project unlikely to be resolved (Stalled/ no resolution possible)</b>					
1	East Coast Energy Pvt. Ltd. (Athena)	AP	1320	0	0	0
2	Essar Power Jharkhand Limited	Jharkhand	1200	0	1135	0
3	Monnet Power Co. Ltd.	Odisha	1050	0	262	0
4	LancoBabandh	Odisha	1320	0	0	660
5	VandanaVidyut Limited	Chhattisgarh	270	135	0	0
6	Visa Power Limited	Chhattisgarh	1200	0	0	0
7	KVK Nilanchal Power Limited	Odisha	1050	0	88	311
	<b>Total</b>		<b>7410</b>	<b>135</b>	<b>1484.5</b>	<b>971</b>
	<b>Grand Total</b>		<b>40130</b>	<b>26254</b>	<b>19047.5</b>	<b>24747</b>
	N.B. the above data is prepared from various sources and hence tentative / subject to verification					



**The resolution process of stressed assets through Insolvency & Bankruptcy Code (IBC) or through National Company Law Tribunal (NCLT)**

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 - flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.
2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra vires.
3. Thereafter, RBI vide its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:
  - a. Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
  - b. Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan(RP).
  - c. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

- d. An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.
- e. Additional Provisioning on account of delayed implementation of RP:-  
For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

- f. Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.
- g. Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors.

**MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON ENERGY (2020-21) HELD ON 18<sup>th</sup> MARCH, 2021 IN COMMITTEE ROOM '2', PARLIAMENT HOUSE ANNEXE EXTENSION, NEW DELHI**

The Committee met from 1500 hrs. to 15.35 hrs.

**LOK SABHA**

**Shri Rajiv Ranjan Singh alias Lalan Singh - Chairperson**

2. Km. Shobha Karandlaje
3. Shri Ramesh Chander Kaushik
4. Shri Ashok Mahadeorao Nete
5. Shri Parbatbhai Savabhai Patel
6. Shri Dipsinh Shankarsinh Rathod
7. Shri N. Uttam Kumar Reddy
8. Shri Shivkumar Chanabasappa Udasi

**RAJYA SABHA**

9. Shri T.K.S. Elangovan
10. Shri Maharaja Sanajaoba Leishemba
11. Shri Jugalsinh Mathurji Lokhandwala
12. Dr. Sudhanshu Trivedi
13. Shri K.T.S. Tulsi

**SECRETARIAT**

1. Shri R.C. Tiwari - Joint Secretary
2. Shri R.K. Suryanarayanan - Director
3. Shri Kulmohan Singh Arora - Additional Director
4. Smt. L.N. Haokip - Deputy Secretary

2. At the outset, the Chairperson welcomed the Members and apprised them about the agenda of the sitting. The Committee then took up the following ten draft Reports for consideration and adoption:

- a) Report on Action-taken by the Government on the recommendations contained in the 28<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) on 'National Solar Mission-An Appraisal';
- b) Report on Action-taken by the Government on the recommendations contained in 37<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) on Stressed/Non-performing Assets in Power Sector';
- c) Report on Action-taken by the Government on recommendations contained in 40<sup>th</sup> Report (16<sup>th</sup> Lok Sabha) on 'Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector';
- d) Report on Action-taken by the Government on recommendations contained in 42<sup>nd</sup> Report (16<sup>th</sup> Lok Sabha) on 'Stressed/Non-Performing Assets in Gas based Power Plants';
- e) Report on Action-taken by the Government on the recommendations contained in the 43<sup>rd</sup> Report (16<sup>th</sup> Lok Sabha) on 'Hydro Power'; and
- f) Report on Action-taken by the Government on the recommendations contained in the 1<sup>st</sup> Report (17<sup>th</sup> Lok Sabha) on Demands for Grants (2019-20) of the Ministry of New and Renewable Energy;
- g) Report on Action-taken by the Government on the recommendations contained in the 2<sup>nd</sup> Report (17<sup>th</sup> Lok Sabha) on Demands for Grants (2019-20) of the Ministry of Power;
- h) Report on Action-taken by the Government on the recommendations contained in the 3<sup>rd</sup> Report (17<sup>th</sup> Lok Sabha) on Demands for Grants (2020-21) of the Ministry of New and Renewable Energy'.
- i) Report on Action-taken by the Government on the recommendations contained in the 4<sup>th</sup> Report (17<sup>th</sup> Lok Sabha) on Demands for Grants (2020-21) of the Ministry of Power.
- j) Report on the subject 'Action Plan for achievement of 175 Gigawatt (GW) Renewable Energy Target'.

3. After discussing the contents of the Reports, the Committee adopted the aforementioned draft Reports without any amendment/modification. The Committee also authorized the Chairperson to finalize the above-mentioned Reports and present the same to both the Houses of Parliament in the current Budget Session.

*The Committee then adjourned.*

**APPENDIX - V**

(Vide Introduction of Report)  
ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON THE  
OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE THIRTY-SEVENTH  
REPORT (16<sup>TH</sup> LOK SABHA) OF THE STANDING COMMITTEE ON ENERGY

(i)	Total number of Recommendations	15
(ii)	Observations/Recommendations which have been accepted by the Government:	
	Sl. Nos. 1, 2, 3,4,5,6,7,8,9, 11,12,13,14 and15	
	Total:	14
	Percentage	93.33%
(iii)	Observation/Recommendation which the Committee do not desire to pursue in view of the Government's reply:	
	- Nil -	
	Total:	00
	Percentage	00%
(iv)	Observation/Recommendation in respect of which the reply of the Government has not been accepted by the Committee and which require reiteration:	
	Sl. No. 10	
	Total:	01
	Percentage	6.67%
(v)	Observation/Recommendation in respect of which final reply of the Government are still awaited:	
	- Nil -	
	Total:	00
	Percentage	00%