

The Secretary
Telangana State Electricity Regulatory Commission
11-4-660, 5th floor
Singareni Bhavan, Red Hills
Hyderabad - 500 004

September 7, 2022

Respected Sir,

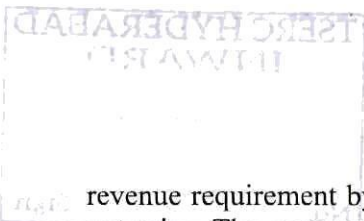
Sub : Submission of objections and suggestions on the true-up claims of TSSPDCL and TSNPDCL for their distribution business for the years from 2006-07 to 2020-21 in OP Nos.39, 40, 41 and 42 of 2021, IA Nos.12, 13, 14 and 15 of 2021 and OP No.22 of 2022, and OP Nos.43, 44, 45 and 46 of 2021, IA Nos.16, 17, 18, 19 of 2021 and OP No.20 of 2022, respectively.

With reference to the public notices on the subject petitions, I am submitting the following points for the consideration of the Hon'ble Commission:

1. TSSPDCL and TSNPDCL have sought a true-up of Rs.4092.23 crore - Rs.3259 crore by SPDCL and Rs.833.23 crore by NPDCL – for their distribution business for the first three control periods and 2019-20 and 2020-21, i.e., from 2006-07 to 2020-21. As per applicable regulations, the DISCOMs have to file their true-up claims for distribution business after completion of the control period concerned. Filing true-up claims for three control periods at a time is violation of the regulations concerned. The reasons given by the DISCOMs for such an abnormal delay in filing the subject claims are untenable, as a period of several years is not required to complete the formalities they have explained in the subject petitions. It is the responsibility of the DISCOMs to file the claims as per the regulations of the Commission and of the Government of the day to direct them to do so. Therefore, non-compliance of the regulations of the Commission for such an abnormal period should be treated as a failure of omission both by the State Government and its DISCOMs. The abnormal delay in filing the subject true-up claims for the first three control periods by the two TS DISCOMs before TSERC for a hefty sum of Rs.3260 crore to be collected from their consumers is unwarranted and impermissible. Such a delay is not in the interest of the DISCOMs, because they have been deprived of what has been due to them during the said period. Nor is it in the interest of the consumers, because such an accumulated burden, coupled with the highest tariff hike in force for the year 2022-23, will unjustifiably overburden the consumers, besides leaving scope for imposing true-up burdens on new consumers for the consumption of power by old consumers under the same service connection. It will also leave scope for imposing the true-up burden of a particular control period on consumers who have taken new connections after that control period. For the last three financial years, the DISCOMs did not file their ARR and tariff revision proposals in time. Hon'ble TSERC rightly returned their belated filings, as they were not filed in time. However, TSERC permitted the DISCOMs to collect tariffs for the last three years as per the earlier tariff order given four years back. True-up claims are for additional expenditure incurred by the DISCOMs or loss of revenue as determined in the annual tariff order/MYT order issued by the Commission. Since for the last three years, no public hearings were held and no retail supply tariff orders were issued by the Commission, the question of determining annual

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revenue requirement by the Commission and variations therein for true-up claims would not arise. The very valid reason for which TSERC returned the belated ARR and tariff proposals of the DISCOMs for the last three financial years should equally apply to the belated true-up claims of the DISCOMs for their distribution business. For the failure of non-submission of true-up claims in time, the Government should bear that burden of true-up claims and provide permissible amount to the DISCOMs. It is to be noted that the DISCOMs could not file their true-up claims for their retail supply business for the last three financial years which should be done on yearly basis as per the applicable regulations of the Commission.

2. The hefty sum claimed under true-up by the DISCOMs is after adjusting non-tariff income, revenue from wheeling charges/open access and amounts received by them from the State Government under UDAY. It should not have been difficult for the DISCOMs to file their true-up claims for distribution business control period-wise, even with some delay for unavoidable reasons. There is no justification in filing the claims for three control periods together, for, the issues pertaining to a control period would not have any relevance or impact on the claims for the immediate previous control period. Obviously, the abnormal and impermissible delay in filing the subject claims involves elements of dereliction and redtapism at the levels of the DISCOMs and the State Government, much more so in the case of the latter, because the DISCOMs have nothing to gain by delaying filing of the subject petitions inordinately. Needless to say, for filing true-up claims of the first control period (for three years up to 2008-09), a period of more than twelve years is not required. For filing true-up claims for the second control period (2009-10 to 2013-14), a period of more than seven years is not required. For filing true-up claims of the third control period (2014-15 to 2018-19), a period of more than two years is not required. In this connection, it may be noted that TS TRANSCO filed its true-up/true-down claims periodically and up to 2020-21.
3. Contrary to its practice, the Hon'ble Commission has not sought any clarifications, responses and further information from the DISCOMs relating to the subject petitions before inviting objections and suggestions from the interested public. Even if the Commission has sought and got such further information from the DISCOMs, it is not made public in its web site. Though the subject petitions were received by the Commission on September 1, 2021, public notices were issued in the month of August, 2022. In other words, it can be presumed that a period of nearly one year from the date of filing of the subject petitions is not sufficient for the Hon'ble Commission to study the same and seek relevant clarifications and further information, if any, from the DISCOMs, or that it has considered that no further clarifications and information are required from the DISCOMs to meet regulatory requirements. The subject petitions and annexes thereto filed by the DISCOMs run into 783 pages - 526 pages by SPDCL and 257 pages by NPDCL - pertaining to a period of 15 years. It is difficult to study and analyse the same and prepare required submissions within a short period from the date of uploading the subject petitions on the web site of the Hon'ble Commission. I request the Hon'ble Commission to extend time for filing objections and suggestions at least by 20 days and reschedule date of public hearing suitably.

Thanking you,

Yours sincerely,



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Copy to :

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The Secretary
Telangana State Electricity Regulatory Commission
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September 27, 2022

Respected Sir,

Sub : Submission of objections and suggestions on the true-up claims of TSSPDCL and TSNPDCL for their distribution business for the years from 2006-07 to 2020-21 in OP Nos.39, 40, 41 and 42 of 2021, IA Nos.12, 13, 14 and 15 of 2021 and OP No.22 of 2022, and OP Nos.43, 44, 45 and 46 of 2021, IA Nos.16, 17, 18, 19 of 2021 and OP No.20 of 2022, respectively.

Further to my written submissions dated 7.9.2022, am submitting the following points for the consideration of the Hon'ble Commission:

1. Relating to its annual performance for distribution business for the year 2019-20, TSSPDCL has submitted that, under the Financial Restructuring Package 2012, the then State government assumed the liability of the DISCOM (erstwhile APCPDCL) to the extent of Rs.4026 crore covering the short-term borrowings towards expensive power of the DISCOM. TSNPDCL has submitted that under FRP, the State government assumed liability of the DISCOM (erstwhile APNPDCL) to the extent of Rs.1744 crore. The DISCOMs have contended that the FRP covered the liability of the DISCOMs towards borrowing for purchasing expensive power which was not admitted by the Hon'ble Commission in the fuel surcharge adjustment/power purchase true-ups and that the impact of FRP cannot be considered under the true-ups of the DISCOMs. In this connection, it needs to be submitted and examined whether the liability of Rs.4026 crore and Rs.1744 crore taken over by the State government under FRP cover only FSA/power purchase true-ups claimed by the DISCOMs but rejected by the Hon'ble Commission.

2. Under UDAY scheme signed in 2017, GoTS took over Rs.5550.21 crore (75% of total outstanding) of TSSPDCL as on 21.23.2017 by infusing equity of Rs.4593.84 crore in 2016-17 and Rs.282.93 crore in 2017-18, the DISCOM has explained. Similarly, under UDAY scheme signed in 2017, GoTS took over Rs.3373 crore (75% of total outstanding) of TSNPDCL as on 21.23.2017 by infusing equity of Rs.2396 crore in 2016-17 and Rs.450 crore in 2017-18, the DISCOM has explained. Since this equity infusion is not capital grant, it attracts a return on equity @ 14% as per Regulation 4 of 2015, the DISCOMs have contended. Furthermore, as per the national tariff policy 2016, equity in excess of the normative level of 25% attracts weighted average rate of interest and as such, "no benefit has been accrued to the DISCOM due to UDAY," the DISCOMs have submitted. In other words, the implied purport of the submission of the DISCOMs is that, since it is infusion of equity by GoTS under UDAY, instead of giving a capital grant, that amount cannot be adjusted for reducing the true-up claims of the DISCOMs. Infusion of equity by GoTS is unrelated to the terms of UDAY scheme and, as such, it is not fulfilling its obligation under UDAY. Therefore, the contention of the DISCOMs that GoTS infused the said equity under UDAY is untenable. I request the Hon'ble Commission to take into account what has been due to the DISCOMs from GoTS under UDAY and adjust the same towards true-up claims of the DISCOMs.

3. The reason given by the Commission for approving around 50% of the excess amount of cost of power purchase claimed by the DISCOMs under true-up for the year 2016-17, is that the DISCOMs had not substantiated savings due to UDAY scheme under which the Government of Telangana had to take over 75% of outstanding debt of the DISCOMs as on 30.9.2015. The Hon'ble Commission considered the true-up/true-down claims of the DISCOMs provisionally in the tariff order for 2017-18. In the retail supply tariff order for the year 2018-19, the Hon'ble TSERC maintained that "the Government of India, Government of Telangana State and the Licensees have entered into a Tripartite MoU (UDAY MoU) dated 04.01.2017 in order to improve the operational and financial efficiency of the Licensees to enable their financial turnaround. Under the said scheme, the Government of Telangana State is to take over 75% of the outstanding debt of the Licensees as on 30.09.2015 by the end of FY 2016-17. The Commission directed the Licensees to submit the savings on their distribution businesses upon implementation of UDAY. In reply, the Licensees submitted that the savings due to UDAY Scheme may be considered at the end of the Control Period. The Commission does not find merit in the submissions of the DISCOMs particularly when the savings have been indicated and considered by the Commission in the Tariff Order for FY 2017-18. Hence, the Commission has considered the savings as Rs.743.88 crore and Rs.372.54 crore for SPDCL and NPDCL respectively, the same as considered in the Tariff Order for FY 2017-18" (page 85 of Tariff Order for 2018-19). I request the Hon'ble Commission to take the same stand on the obligation of the GoTS to take over liabilities of the TS DISCOMs under UDAY and adjust the same to reduce their true-up claims for distribution business. Infusion of equity by GoTS, instead of taking over their liabilities under UDAY, does not contribute to enable the financial turnaround of the DISCOMs and reduction of the burden of true-up on the consumers. Since infusion of equity took place, supposedly under UDAY, in the years 2016-17 and 2017-18, it is obvious that the DISCOMs had deliberately avoided to show the same in their submissions then by contending that the savings due to UDAY scheme may be considered at the end of the control period, despite the direction of the Hon'ble Commission to the licensees to submit the savings on their distribution businesses upon implementation of UDAY. It was because infusion of equity under UDAY was untenable and it cannot be treated as taking over of liabilities of the DISCOMs as per the terms of the said scheme. TSSPDCL has submitted that it had incurred a loss of Rs.4940.24 crore loss for the year 2019-20. Similarly, TSNPDCL has shown a loss of Rs.1116.29 crore for the year 2019-20. I also request the Hon'ble Commission to examine the latest accumulated loss of both the DISCOMs and make it public.

4. While the then government assumed liabilities of the DISCOMs under FRP which covered the liability of the DISCOMs towards borrowing expensive power which was not admitted by the Hon'ble Commission in the fuel surcharge adjustment/power purchase true-ups and as such, as rightly claimed by the DISCOMs, the impact of FRP cannot be considered under the true-ups of the DISCOMs. In other words, assuming of liabilities of the DISCOMs by the State government under FRP benefited the DISCOMs and their consumers, in the form of reduction of liabilities of the DISCOMs, on the one hand, and reduction of the burden of true up claims on the consumers, on the other. The TRS government did not assume liabilities of the DISCOMs under UDAY which it should have as per the terms of the scheme. Infusing equity, instead of assuming liabilities, i.e., sanctioning a grant to redeem liabilities, means doing business and expecting return thereon, i.e., earning profit. Such an arrangement cannot benefit the DISCOMs in the form of reduction of their liabilities and the consumers in the form of

reducing the burdens of true-up claims. That is not the intended objective under UDAY. Irrespective any scheme like FRP or UDAY, it is always open to the State government to sanction funds for meeting requirements of equity of its power utilities. Projecting or treating infusion of equity by the State government in the DISCOMs as taking over liabilities of the latter under a scheme like UDAY would be a blatant distortion and legally untenable and defeat the very purpose of the scheme to which the State government has been a willing signatory. The DISCOMs themselves have admitted that "no benefit has been accrued to the DISCOM due to UDAY as infusion by the GoTS attracts return on equity of 14% which is higher than the cost of debt that would have incurred in the absence of UDAY scheme." Moreover, it is to be ascertained whether the amount intended for infusion of equity by GoTS was actually spent for that purpose or for redeeming the liabilities of the DISCOMs. If that amount was used for equity to create assets and capitalise them for distribution business of the DISCOMs and earn return thereon, it won't come under UDAY. If that amount was used for redeeming the liabilities of the DISCOMs, those liabilities cannot be allowed as components of true-up claims. Therefore, I request the Hon'ble Commission to direct the DISCOMs to get what is due to them from the State government under UDAY and adjust that amount for reducing their true-up claims to the extent the Hon'ble Commission considers them uncontrollable and permissible for their distribution business.

5. With adequate time given by the Hon'ble Commission to the Discoms to send their responses to objections and suggestions, we hope that they would send their responses to our submissions, with relevant information and clarifications, well in time to enable us to study the same and make further submissions during the public hearings rescheduled to be held on 21.10.2022. I request the Hon'ble Commission to consider the above-mentioned submissions and my earlier submissions, among others, and provide me an opportunity to make further submissions after receiving responses of the DISCOMs and during the public hearings.

Thanking you,

Yours sincerely,

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