

To, The Secretary, T.S. Electricity Regulatory Commission, 5 th Floor, Singareni Bhavan, Red Hills, Lakdi ka pool, Hyderabad – 500 004	From, M. Thimma Reddy, Convenor, People’s Monitoring Group on Electricity Regulation, H.No. 3-4-107/1, Plot No. 39, Radhakrishna Nagar, Attapur, Hyderabad – 500 048
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Date: 13-12-2023

Dear Sir;

Sub:- Comments on TSERC’s Draft MYT Regulations 2023

Ref: - Public Notice dated 16-11-2023

1. In response to the Public Notice dated 16-11-2023 we are submitting the following comments on Draft TSERC Multi Year Tariff Regulations, 2023 for the consideration of the Commission.

Definitions:

The definitions of the following terms need to be included:

2.1 The term ‘Incidental Expenditure During Construction (IEDC)’ mentioned in Clause 21.2 needs to be defined. The definition needs to cover the items/factors that come under IEDC.

2.2 The term prior period income/expenses mentioned in Clause 40.1 and other places needs to be defined.

3.1 Second proviso of the Clause 6.3 mentions complete segregation of accounts between SLDC and Transmission business. The talk about complete segregation of accounts between SLDC and Transmission business is going on since a long time. It is high time the Commission specifies a date by which accounts between SLDC and Transmission licensee are completely segregated and SLDC becomes fully independent of the transmission licensee.

4.1 According to Clause 6 of the Draft MYT Regulations licensees have to file true-up of preceding year along with ARR and tariff proposals of each year of the control period. Here clarity is needed for which year will be considered as preceding year. Under the existing practice if the ARR and Tariff filing is for the year 2024-25 the year 2024-25 will be treated as ensuing year, the year 2023-24 will be considered as current year and the year 2022-23 will be considered as previous year. The doubt is which one of years – 2022-23 or 2023-24 – will be treated as the preceding year if ARR and tariff filing is for the year 2024-25. According to

Clause 13.11 (c), “The distribution licensee, after completion of audited annual accounts, shall file the true-up petition...” If the ARR and tariff filings are for the year 2024-25 audited annual accounts will not be ready in the case of 2023-24 and the same will be ready in the case of 2022-23. Hence, the year 2022-23 need to be treated as previous/preceding year if ARR and tariff filing is for the year 2024-25. This clarification needs to be provided in the proposed Regulations.

Treatment of Fuel Cost Adjustment:

5.1 According to Clause 13.1 of the Draft Regulations variation in cost of fuel shall be passed through as an adjustment in its Energy Charges on a monthly basis. According to Clause 13.3 distribution licensee shall levy the FCA charges during the billing month and a maximum of Rs. 0.30 per unit in a month can be levied as FCA charges without approval of the Commission. If FCA charges in any billing month exceeds Rs. 0.30 per unit the distribution licensee shall not recover FCA charges in excess of Rs. 0.30 per unit without prior approval of the Commission. Also, if distribution licensee fails in levying FCA charges within the timelines it will not be allowed to claim them in future. According to Clause 13.11 (a) the distribution licensee shall file with the Commission the detailed computations of FCA charges and supporting documents for post-facto approval after completion of the quarter.

5.2 According to the above provisions distribution licensees have to calculate and levy FCA on monthly basis. When DISCOMs are not filing annual tariff filings in time it is a very tall order to expect them to claim FCA on monthly basis. The central government might have proposed monthly collection of FCA in a disparate bid to shore up finances of DISCOMs. Even then DISCOMs do not seem to be claiming FCA on monthly basis. At the same time the Commission will be scrutinising DISCOMs’ FCA claims on quarterly basis only. Levying FCA charges on monthly basis and scrutiny of the same on quarterly basis will result in cumbersome process. Given the limited capacities of the DISCOMs and to avoid confusion it is better to file claims on FCA charges quarterly, and the same shall be collected with the prior approval of the Commission.

5.3 It has also to be noted that given the information constraints Licensees may not be able to compute and levy FCA charges within the timelines proposed in the Draft Regulations. According to the Clause 13.8 of the draft Regulations “The distribution licensee shall compute the monthly FCA charges as per the procedure mentioned in this Regulation and publish in the newspapers duly displaying the FCA charges within 45 days after completion of the particular month. Beyond 45 days such claim shall not be allowed.” Licensees have to receive the information on changes in energy charges and other information from generators in time. Before that generators have to receive information from fuel suppliers on changes in fuel prices in time. If the licensees do not receive this information within the time lines proposed in the Draft Regulations, they will be forced to forego the FCA claims. According to the Clause 13.12 of the draft Regulations “... After completion of a quarte year, the distribution licensee shall file before the Commission the detailed computations of FCA charges and supporting documents as may be required for verification by the Commission within 60 days from the last day of the quarter for post-facto approval of the Commission.” Hence, timelines imposed on the DISCOMs to claim FCA charges shall reflect information flow from generators and fuel suppliers.

5.4 According to the Clause 13.3 (c) “FCA charges shall be passed on to all categories of consumers except LT-V Agriculture consumers and distribution licensees shall claim the FCA charge of LT-V Agriculture consumers from the Government of Telangana. Such claims if not received from the Government of Telangana shall not be allowed in annual true up filings.” This provision seems to assume that in future also the Government of Telangana is going to have the same policy towards power consumption in agriculture sector. Instead, as is being done in the case of retail supply tariff, the Commission needs to ascertain with the State Government of Telangana whether it is going to meet the FCA expenses of agriculture consumers and if the State Government of Telangana is not willing to take up this burden the same needs to be recovered from agriculture consumers.

5.5 As power purchase cost accounts for more than 80% of the electricity tariff all factors in the power purchase costs need to be treated as controllable factors. All factors listed as uncontrollable factors under Clause 12.2 shall be treated as controllable factors. In the name of uncontrollable factors all risks shall not be dumped on the consumers.

Load forecasts and power procurement plans:

6.1 From the provisions of the Draft Regulations it is not clear for what period load forecasting and power procurement plan have to be prepared. According to Clause 16.1 of the Draft Regulations, “The Distribution Licensee shall undertake its power procurement plan for the Control period, which may include long-term, medium-term and short-term power procurement, approved by the Commission in accordance with these Regulations.” According to Clause 17.2 of the Draft Regulations, “The power procurement plan of the Distribution Licensee shall comprise the following: (a) A quantitative forecast of the unrestricted base load and peak load for electricity within its area of supply: ...” These extracts imply that load forecasting and power procurement plan will be done for a control period of 5 years. According to the first proviso of Clause 17.2 of the Draft Regulations, “Provided that the forecast or estimates contained in the long-term procurement plan shall be separately stated for peak and off-peak periods...” and according to the third proviso of the Clause “Provided also that the long-term/medium-term procurement plan shall be a least cost plan...” According to Clause 16.2 of the Draft Regulations long-term means a duration exceeding seven years but not exceeding twenty five years, medium-term means a duration exceeding one year but not exceeding seven years. Does it mean that load forecasting and power procurement plan will be done for a period of twenty five years?

6.2 According to Clause 2.1 of erstwhile APERC’s Guidelines for Loas Forecasts, Resource Plans and Power Procurement, 2006, “Load forecasts to be submitted to the Commission by Transmission Licensees and Distribution Licensees ... shall contain a forecast of future energy (in megawatt-hour, or MWh) and demand (in megawatt, or MW) in the respective areas of supply of each Licensee for 2 (two) Control Periods Control Period means a multi-year period fixed by the Commission from time to time, usually 5 years, for which the principles for determination of revenue requirement will be fixed. The licensees shall submit a detailed load forecast for each year of a Control Period under consideration for tariff review purpose and a simple forecast for the subsequent Control Period.”

6.3 According to Clause 3.1.1 of the above Guidelines, “Each Licensee shall formulate Resource Plans for a period of 2 (two) Control Periods in co-ordination with others for the promotion of generation, transmission, distribution and supply of electricity that shall generally conform to the following provisions...”

6.4 It will be meaningful to prepare load forecasts and power procurement plan for a period of 10 years spanning two control periods.

6.5 According to Clause 1.6 of the Draft Regulations erstwhile APERC’s Guidelines for Load Forecasts, Resource Plans and Power Procurement, 2006 will be superseded by these Regulations. The Draft Regulations do not lay down any method or procedure or guidelines for preparing load forecasts and power procurement plans except for five lines under Clause 17.3 of the Draft Regulations. Load forecasts and power procurement plans are very crucial for the governance of the power sector in the state and detailed regulations shall be laid down for the same. But leaving this part of the Regulations void is not advisable. It is important that the Commission brings in detailed regulations in the place the old guidelines on load forecasts and power procurement plan that will capture the present as well as the future needs in a comprehensive manner. These regulations need to address the emerging trends in power generation as well as procurement – particularly increasing contribution from renewable sources of energy, captive generation and open access. This exercise can take into account CEA’s resource adequacy guidelines, demand forecast guidelines, planning code in the revised Indian Electricity Grid Code etc. In addition to meeting the projected demand, cost optimisation of power purchase should be taken up and expected improvements in network performance parameters should be quantified. The planning exercise should be carried out for different scenarios with clear quantification of costs and benefits.

6.6 The Regulation may mandate DISCOMs to prepare short-term procurement plans based on week-ahead, fortnight-ahead and seasonal forecasts to optimise costs. DISCOMs will have options for 11 month ahead procurement with power exchanges soon launching these short-term contracts. Significant innovation and cost optimisation measures are possible with short-term trades which should also be detailed by the utilities in their procurement plan. Short term procurement can be efficient with week-ahead, fortnight-ahead, seasonal forecasts rather than be reactive and dependant only on day-ahead trades.

6.7 The Draft Regulations also do not provide for Resource Plans and Business Plans of the Licensees. The provisions for preparation and submission of Resource Plans and Business Plans by the Licensees shall also be part of the proposed Regulations.

6.8 Power procurement under the above power procurement plans shall be done through competitive bidding. All future procurement of power should be undertaken only through tariff based competitive bidding, as per Section 63 of the Electricity Act 2003. Though Clause 16.3 of the Draft Regulations provides for competitive bidding Clause 16.4 allows the Licensee to procure power by a process other than competitive bidding. This Clause 16.4 has potential for misuse and the same shall not be included in the final Regulations.

Renovation and modernisation:

7.1 According to proviso of Clause 24.1, “Provided that the generating company or the transmission licensee intending to undertake renovation and modernisation (R&M) shall be required to obtain the consent of the beneficiaries or the long-term customers, as the case may be, for such renovation and modernisation (R&M) and submit the same along with the petition.” It is for the Commission to subject the petitions for R&M programmes to public process and hear the beneficiaries or the long-term customers before taking a decision. There is every possibility that such consents of beneficiaries or the long-term customers filed by petitioners could be doctored. As such this proviso shall not be part of the proposed Regulations.

7.2 Clause 41.1 related to R&M by the Generating Entity refers to record of consultation with beneficiaries. This reference from the Clause 41.1 shall be removed.

Treatment of Return on Equity:

8.1 Clause 29 of the Draft Regulations deal with Return on Equity (RoE). RoE shall be linked to the rate of interest. RoE shall be equal to rate of interest plus 2% to account for the risk premium. APERC Order dated 26-08-2016 in R.P. No. 2 of 2016 in O/P/ No. 13 of 2015 mentions the following, “Accordingly, AP Transco computed the Return on Capital at 12.5 percent using 75:25 debt equity ratio with cost of debt and return on equity at 12 percent and 14 percent respectively.” (Para 1) As interest rates have come down considerably RoE shall reflect this decline in interest rates. Additional ROE may be provided if its performance is better than the benchmark and RoE may be reduced if its performance is below the benchmark and for not submitting tariff/true-up/FCA filings in time.

8.2 The manner of computing RoE as provided in the Clause 29.3 (b) is not clear. As Clause 29.3 (a) allows RoE on amount of equity portion of capital further addition of RoE under Clause 29.3 (b) is not be necessary.

8.3 According to the Clause 30.1 of the Draft Regulations “The Base rate of return on Equity allowed by the Commission under Clause 29.2 shall be grossed up with the effective Income Tax rate of the respective entity for the respective financial year.” This implies that along with RoE/profit income tax to be paid on this RoE/profit also becomes part of ARR that needs to be recovered through tariffs. Under normal course income tax is paid out of the profits earned by the entities. But under the present Clause income tax on the profits earned by the entities will be paid by electricity consumers through tariffs. In other words, electricity consumers will be reimbursing the income tax paid by the entities. It implies that consumers are paying the same thing twice – once in the form of RoE/Profit and another time in the form of income tax on this RoE/profit. This defeats the very purpose of levying of income tax and is regressive. As such this Clause shall not be included in the proposed Regulations.

9.1 Clause 34 deals with Carrying cost or holding cost. Carrying cost or holding cost due to delay in filing tariff/true-up/FCA petitions by the licensees shall not be allowed. The same treatment shall apply to generating companies if they fail to file generation tariff petitions in time.

Generation:

10.1 The Clause 37.2 appears to be incomplete. It ends with 'or' and there is no matter after this 'or'.

10.2 According to Clause 38.5 the generating entity shall file the petition for determination of provisional Tariff for new generating station/unit, at least six months prior to the anticipated date of commercial operation. According to Clause 38.9 the generating entity shall file the petition for determination of final Tariff for new generating station/unit, at least six months from the date of commercial operation. The draft Regulations seems to assume that there must be delays in achieving date of commercial operation and to reflect this there must be provisions for provisional tariff and final tariff. Instead, anticipated date of commercial operation is to be treated as scheduled date of commercial operation, and there must be one final tariff and subsequent developments/changes will be captured through annual true-up exercise.

10.3 The operational norms for thermal generating stations provided in Clause 44 deals with sub-critical plants. This Clause does not deal with super-critical plants and most of the new power plants are super-critical plants.

Transmission and Distribution:

11.1 According to Clause 68.3 all the new Intra-State transmission systems costing above a threshold limit of Rs. 300 Crore shall be developed through tariff based competitive bidding. This threshold limit of Rs. 300 crore is high and this threshold limit must be brought down to Rs. 100 Crore.

11.2 Part VIII of the Regulations dealing with distribution wheeling business shall also include methodology/formula for calculating voltage wise per kVa/per month wheeling charge.

11.3 Components of aggregate revenue requirement for retail supply business/tariff (Clause 86.1) shall also include distribution cost/wheeling charges.

11.4 Part IX of the draft Regulations deal with retail supply of electricity. Under this Part Clause 92 deals with cross-subsidy surcharge and Clause 93 deals with additional surcharge. But this part or any part of the draft Regulations do not refer to subsidy to be provided by the State Government. The Regulations need to detail the framework for subsidy accounting and reporting.

Expenses on emission control systems:

12.1 Clause 23 of the Draft Regulations allows additional capital expenditure on account of revised emission standards. In order to ensure proper operation of emission control systems (ECS), and to justify the intent of the related expenses, the cost of ECS should be allowed subject to achieving the purpose of incurring the ECS expenditure, i.e. adherence to the norms. This could be done either on the basis of the generator procuring suitable certification from the State Pollution Control Board for adherence, or the Commission mandating generators to publish emissions data obtained from CEMS (Continuous Emissions Monitoring System) on their website and approving expenditure only after scrutiny of such data for adherence. The

power generation plants that have not installed ECS by their applicable deadline should be subject to a notional additional penalty after such deadline while considering merit order despatch (MoD) so that they do not gain an unfair advantage by being non-compliant to the norms. In addition, PLF incentive should also not be applicable for such plants until they are able to comply with the norms.

Benchmarking price of coal from integrated mines to the CIL notified price:

13.1 The input price of coal from integrated mines which is going to be on to consumers through power procurement cost shall be benchmarked with CIL price. If coal from a captive mine were to be more expensive than CIL notified price for the same grade, then it would be better for consumers that the coal is procured from CIL. The reason for allotting captive coal mines 'free' to power companies is so that they could obtain coal at a lower price. Maharashtra ERC has recognised this in their second amendment to its 2019 MYT regulations. The Commission should consider capping the price of coal for integrated mines to the CIL notified price for the corresponding grade of coal, to be consistent with the objectives of allotting coal mines for captive consumption under the Coal Mines (Special Provisions) Act, 2015 and related rules.

14.1 Annual ARR and tariff proposal filings shall also include annual reports on Standards of Performance, status of arrears, electrical accidents and other aspects that reflect the performance of the licensees.

15.1 The proposed Regulations shall also direct the distribution licensees to file quarterly energy audit reports before the Commission and the same shall be available to the public.

We request the Commission to take our above submissions on record.

Thanking you.

Sincerely yours,

M. Thimma Reddy.