BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

April 25, 2019

IN THE MATTER OF

Comments / suggestions on "Draft Uttar Pradesh Electricity Regulatory Commission (Multi Year Tariff for Distribution, Transmission & SLDC) Regulations, 2020"

Submissions from Council on Energy, Environment and Water

The Hon'ble Commission has invited comments from all stakeholders on the "Draft Uttar Pradesh Electricity Regulatory Commission (Multi Year Tariff for Distribution, Transmission & SLDC) Regulations, 2020" in April 2019. The present submission is in response to the UPERC notice dated April 10, 2019, and the suggestions / comments are most respectfully set out below
(Note: The draft regulation has been marked in italics and the suggestions / comments are underlined)

Objectives of Multi-Year Tariff regime

The main objectives of Multi-Year Tariff regime as has been envisaged under National Tariff Policy and by CERC, FOR and various ERCs are summarised as under:

- Provide regulatory certainty to the Utilities, investors and consumers by promoting transparency, consistency and predictability of regulatory approach, thereby minimizing the perception of regulatory risk.

- Address the risk sharing mechanism between Utilities and consumers based on controllable and uncontrollable factors.

- Ensure financial viability of the sector to attract investment, ensure growth and safeguard the interest of the consumers.

- Review operational norms for Generation, Transmission, Distribution and Supply businesses, related issues and recommend suitable measures to address such issues.

- Promote operational efficiency.

- Rationalise tariffs in the long-term through improvement in operational efficiency.

1. Multi Year Tariff Framework (Regulation 3)

Cost and tariff projections for the entire control period

Draft regulation 3 provides the framework for filing of Multi Year Tariff Petition and it specifies that the Business Plan and the MYT ARR Petition (comprising the forecast of ARR, expected revenue from existing Tariff or Fees (including deemed revenue, if any) and Charges and expected revenue gap, etc.) shall be filed for each year of the Control Period (i.e. FY 2020-21 to FY 2024-25). Further, the draft regulation 3.1 (vi) provides that Petition for proposed Tariff or Fees and Charges for each year of the Control Period shall be submitted annually by Licensee / SLDC.

It is submitted that under the proposed approach (as per draft regulation 3.1 (vi)), the basic purpose of MYT regime will be defeated as the process of cost determination essentially remains annual, then calculating expenses like Power purchase, Interest cost and O&M annually, will lead to no accountability for the licensee / SLDC since there will be scope for deviations every year.

We submit that instead of such mixed approach, the Hon'ble Commission should adopt a robust multi-year tariff process which has cost and tariff projections for the entire control period. Opportunity for any mid-course corrections shall be provided. Such an approach has been adopted by Maharashtra Electricity Regulatory Commission in the present Control Period.

Treatment of non-filing of Tariff proposal by Licensee

It is further submitted that in the past, the Licensees have failed multiple times to propose Tariff for the concerned year due to variety of reasons ranging from inexplicit State Govt. intervention to lack of preparedness owing to incomplete information. Such events adversely affect the cash flow of discoms and results in need for borrowing to manage working capital requirements. The interest burden, in turn is passed on to the consumers. In such cases, the Hon'ble Commission must take a serious note of non-filing of Tariff and consider the corresponding non – filing year as a 'No-Tariff year' and act in the interest of the consumer.

2. Petitions to be filed in the Control Period (Regulation 4)

Separate timelines for filing of Business Plan and Multi Year ARR petition

Draft regulation 4.1 provides the details / type of the Petitions that are required to be filed in the Control Period. It is specified that Business Plan and ARR for the control period shall be submitted by 30.11.2019. The significance of the Business Plan can simply be gauged from the kind of exercises (but not limited to) that are undertaken to prepare the plan.

1. Sales and Demand Projections,
2. Power Procurement Plan and Forecasting,
3. RPO Planning and forecasting,
4. Distribution loss Trajectory,

5. Capital Investment Plan,
6. Financing Plan, and others

The above projections require, that adequate time and efforts are dedicated for prudence check of all the elements by the Hon'ble Commission. However, this can be achieved if Business plan is filed separately before the Multi Year ARR Petition, at least a three months gap is essential. Even the same approach is provided in the current UPERC (MYT Distribution Tariff) Regulations, 2014. Once the Business plan is thoughtfully designed, it can certainly act as basis for filing of a robust Multi Year ARR Petition. It is submitted that separate timelines for filing of Business Plan and Multi Year ARR petition shall be defined by the Hon'ble Commission.

Under the draft regulation 4.1, it is further provided that in case the Licensee / SLDC feels that there is a requirement of change in ARR in a particular year of the Control Period then, they would also file the revised ARR along with True- Up, APR and Tariff Petition of that year.

Considering, the past experience of launch of multiple schemes by Ministry of Power under the government development plan in the mid of year / control period, the need for revision in ARR may certainly arise. It is submitted, that it is important for the Licensee to bring such developments and their incremental impact in the notice of the Commission. Therefore, the Licensee / SLDC may be asked to submit the revised ARR petition along with the reasons.

MYT Tariff Filing Formats
Under the draft regulation 4.2, it is specified that the Petitioner shall submit the data regarding the above as per Guidelines and Formats prescribed by the Commission. However, no formats were available along with the draft regulation uploaded on the website of the Commission.

It is submitted that MYT Tariff filing formats (for True -up, APR & ARR) shall be provided in the public domain and adequate time for filing submissions to interested stakeholders shall be provided.

3. **Business Plan and Multi Year ARR Petition (Regulation 5)**

Broader methodological framework for preparation of Business Plan
The draft regulation 5 specifies that Business Plan shall be filed by the Licensee comprising of forecasting, planning and trajectory of various parameters. The exercise of preparing a sound Business plan becomes even more crucial in the current sector context with focus on real time market settlements, security constrained economic dispatch of interstate generating station, increasing renewables mix, increasing cost of supply, expected increase in demand on account of large scale household electrification and appliance penetration, focus on 24*7 quality supply. In order to adapt to the changing dynamics, the draft regulations

should therefore encompass a much wider set of related aspects under broad methodological framework.

<u>The Hon'ble Commission may consider adding / including the below mentioned aspects to the draft regulations:</u>

<u>Sales and Demand Projections:</u>

- Monthly long-term demand forecasting must be done for the first 5 years and annual forecast for the next ten year horizon, shall be done on a rolling basis. The exercise must be undertaken every year by revisiting the figures forecasted in the previous year and comparing the same with the current figures.

- Impact of economic trends across key sectors like industrial, agricultural, commercial and transportation, etc., progress of government development programs, reduction in demand due to high tariffs in some categories, elasticity of sales to tariffs, and change in appliance usage; shall be taken into consideration.

- Norms for unmetered consumption of various categories shall be re-estimated to reflect the true picture as the current norms are too high and sounds unrealistic.

<u>Power procurement plan and Forecasting:</u>

- The draft regulations should clearly identify the nodal entity in charge of long-term demand forecasting and power procurement planning.

- The Licensee must submit the methodology adopted and the assumptions on which the power procurement forecast / plan are made.

- The Licensees must submit the validity of their existing long-term / medium-term / short term PPAs and the expected Commercial Operation Date (CoD) of additional resources, including plant requirements in future.

- Possibility of surrender of current contracted capacity shall be evaluated.

- Administering the status of generating station in the pipeline to assess impact of costs due to delay in commissioning and deferment due to not getting statutory clearances and are unlikely to come up in the near future.

- An estimate of short-term power procurement, sale of excess power from underutilised PPAs through short/medium/long-term contracts, provision for reserves, ancillary services, shortage, etc shall be made.

- Appropriate accounting for franchisees, open access, captive generation, solar rooftop, DSM initiatives and retail supply competition in future shall be consideration.

- In case of any proposal for procurement of power through the Memorandum of Understanding (MoU) route, the licensee is required to obtain prior approval of the Commission.

Capital Investment Plan:

- The draft regulations should clearly identify the Performance improvement envisaged in the Control Period and any other factor influencing the capital investment plan.

The above provisions are inline with the MYT Regulations of various State ERCs

4. Controllable and Uncontrollable Factors (Regulation 8)

The draft regulation 8.2 specifies the controllable factors. It is submitted that addition of Transmission loss shall be considered as part of draft and added to regulation 8.2(c).

5. Power procurement plan (Regulation 15)

Demand forecasts and power procurement plan to the State transmission utility
The draft regulation 15.5 specifies that the Distribution Licensee shall forward a copy of its power procurement plan to the State Transmission Utility (STU) for verification of its consistency with the Transmission System plan for the Intra-State Transmission System. However, the above process would be more effective if complete information relating to long term demand forecast and power procurement plan is provided to the STU.

It is submitted that the Hon'ble Commission may consider that the Distribution Licensees shall submit a copy of the methodology used and assumptions made for demand forecasts and power procurement plan to the State transmission utility for verification of its consistency. Further, if the distribution licensee fails to do so, the STU shall approach the Commission for directives.

6. Additional Power procurement (Regulation 16)

Clarity on long / medium term sources for benchmarking of the Tariff
The draft regulation 16.4 specifies that wherever, the Distribution Licensee has identified a new short-term source of supply from which power can be procured at a Tariff that reduces its approved total power procurement cost, it may enter into a short-term power procurement agreement or arrangement with such supplier without the prior approval of the Commission and the Distribution Licensees should

ensure that the total tariff for procurement of power from such sources is less than the Variable Cost of the Long / Medium Term Power Purchase Sources.

It is submitted that objective of the above provision is to reduce the total power procurement cost. This can be achieved only when the amount A (Tariff of Short-term source / agreement + Fixed Cost of the backed down Long / Medium Term Power Purchase Source) is less than amount B (Total cost of the backed down Long / Medium Term Power Purchase Source) at the state periphery. In view of the above submission, it is requested that necessary modifications shall be made to the draft regulations.

7. **Distribution Loss (Regulation 45)**

Treatment of Distribution Loss w.r.t to Distribution Franchisee

The draft regulation 45.1 specifies that the Distribution Licensee while computing the overall Distribution loss shall also take into account the loss for each Distribution Franchisee area within its Licence area. It is important to note that while estimating losses, franchisees are often treated as single consumers drawing power from higher voltage levels. This is not reflective of how energy is handled as discoms consumers in the franchised area are connected at lower voltage levels with high percentage losses. This treatment could under-estimate T&D and AT&C loss[1].

At present, M/s Torrent Power Limited, an input-based distribution franchisee is operating in the supply area of DVVNL, governed by the provisions of Distribution Franchisee Agreement (DFA) and its subsequent amendments. As per the DFA terms, M/s Torrent Power Limited was required to bring the AT &C loss to 15% level by April 2017, however the losses were 26.78%[2]. The clarity on treatment of the under – achievement of losses needs to be brought, otherwise this will lead to ambiguity in adoption of the approach provided in the draft regulations.

It is submitted that treatment should be clarified by the Commission, especially if it is not inconsonance with historical performance of the distribution franchisee.

Distribution Loss Trajectory for the Control Period

Draft regulation 45.2 specifies the Distribution Loss Trajectory for each Distribution licensee as follows:

Control Period	*DVVNL*	*MVVNL*	*PVVNL*	*PuVVNL*	*KeSCO*	*NPCL*
FY 2020-25	*15%*	*15%*	*15%*	*15%*	*15%*	*8%*

Before embarking on the distribution loss trajectory for the Control Period, it is important to note the following points:

[1] http://www.prayaspune.org/peg/publications/item/407-the-percentage-problem.html

[2] https://www.torrentpower.com/index.php/site/info/bhiwandi

a. The distribution losses approved by the Commission in its Tariff Order dated January 22, 2019 for FY 2018-19 are as follows:

Financial Year	DVVNL	MVVNL	PVVNL	PuVVNL	KeSCO	NPCL
FY 2018-19	16.25%	16.09%	15.20%	16.43%	15.13%	8%

b. The distribution losses approved by the Commission in its MYT Tariff Order dated November 30, 2017, for FY 2019-20 are as follows

Financial Year	DVVNL	MVVNL	PVVNL	PuVVNL	KeSCO	NPCL
FY 2019-20	12.10%	11.80%	11.80%	12.20%	11.80%	8%

Note: Actual performance of Licensee for FY 2019-20 is still under evaluation

It can be observed from above, that the Distribution loss trajectory under the draft regulation 45.2 is contravention to Commission's MYT Tariff Order dated November 30, 2017. It seems that the distribution loss for Discoms like MVVNL, PVVNL & KESCO will rise from 11.80% (projections for FY 2019-20) to 15% and thereafter remains constant in the entire control period (FY 2021-25), such arguments make no sense in the current context.

c. Referring to the information available on UDAY Portal, National Power Portal, reports of Power Finance Corporation and Balance sheets of Discoms, it is visible that the Discoms distribution losses are much higher than the normative levels allowed by the Commission. Its's high time, that a 'Distribution loss estimation' committee may be formed under the Chairmanship of the Hon'ble Chairman of the UP Commission, comprising of officials of Discoms, Energy Dept. GoUP, sector experts, consumer representative, Think Tanks to deliberate on the matter of Distribution losses.

It is requested to the Hon'ble Commission that after the committee comes to the conclusion, the draft regulation 45.2 shall be revisited and a new realistic trajectory shall be defined for the Licensees.

8. General Comments / Addition of New provisions under relevant sections in the draft Regulation

a. Linking O&M expenses with supply and service quality

Operational efficiency can be evaluated on the basis of supply and service quality provided by the Licensees in their supply area. In the current context of '24*7 quality supply for all', it is important that Licensees take accountability for the supply and service quality provided by them and should track and report supply quality data to the Commission.

In line with the above, the norms determined for operation and maintenance in draft Regulation 47, can be linked to certain supply and service quality parameters to ensure accountability for performance.

b. Advance Subsidy Payment by State Govt

*Draft regulation 67 provides that the State Government shall pay in advance the amount to compensate the Distribution Licensee / person affected by the grant of subsidy.*However, in practise the subsidy payments are delayed by the State Govt. and this causes a strain on Licensee working capital requirements on monthly basis.

It is submitted that accountability for timely subsidy payment is crucial to reduce the strain. To address the problem, the regulations can specify that:
Interest cost borne by the Licensee due to delay in subsidy payment should be identified and reported separately. Further, the interest costs should not be passed on to consumers but accounted for in pending subsidy payments by the state government and added to subsidy commitment. (The above provision can be included under the draft Regulation 67).

It is further submitted that under the draft regulations 67.2, it is important that a timeline for implementation of reflection of subsidy amount in the Electricity bills shall be defined.

c. Capacity charges for high-demand and low-demand seasons

In Uttar Pradesh, like in a few other states in the northern region, there is a significant difference between the summer and winter load. The summer load goes up to 19000 MW[3], whereas in winters it is only around 14500 MW[4]. Given that discoms are meeting their 90% power requirement through long term PPAs, they (or the consumers) have to bear the fixed charges for winter months (3 – 5 months), without requisitioning some of the generators. The backdown of capacity in many states is in the range of 15% to 30% of the contracted capacity[5].

In many cases, generating stations often do not take sufficient efforts to be fully available during the peak demand periods/season(s). However, as their normative availability is computed on annual basis, they are able to recover their fixed costs, but the distribution companies are forced to buy power from short-term markets at high prices during peak demand periods.

To address the above problem, Regulation 42 of the CERC tariff regulations, 2019 specifies separate availability targets for high demand and low demand seasons. The similar approach can be adopted in Uttar Pradesh for capacity charge payment to generators. It is submitted that similar regulations as in the CERC tariff regulations can be introduced by UPERC. (The above provision can be included under the draft Regulation 14)

d. Physical verification of Assets under Capital Investment Plan

[3] https://www.rediff.com/money/report/as-temperature-soars-power-demand-across-india-hits-record-high/20180525.htm
[4] CEA's Load Generation Balance Report FY 2018-19, Annex – IV (A) (2/14)
[5] Prayas (Energy Group). (2017, March). The Price of Plenty: Insights from 'surplus' power in Indian States, p.1.

In order to ensure the infrastructure development, reduction in AT & C losses, reliability improvement and the load growth, the Licensees are required to undertake major investments in the Distribution System. However, it is also important to verify that whether various equipment & materials for execution of capex schemes have been procured through fair, transparent & competitive means and also the veracity of payments made against the set Purchase Orders need to be verified. At present, no such framework is available in the draft regulations.

To address the above concern, it is submitted that provision for Physical verification of Assets shall be developed by the Commission which shall include the physical audit of the assets capitalized on quarterly or semi - annual basis. Adoption of technology to ease the process of physical verification of assets shall also be evaluated.

Further, the provisions for Geographical Information System (GIS) mapping of the assets by the Licensees also need to be framed as this will lead to physical verification of the assets linked with their Fixed Asset Register. Such an approach has been adopted by Delhi Electricity Regulatory Commission. (The above provision can be included under the draft Regulation 46)

e. **Ensuring maximum participation in the Tariff proceedings:**
Drop boxes should be made available for people at different places in the State so as to ensure maximum participation during the tariff proceedings. One suggestion could be to ensure that suggestion boxes are available at all the Sub-Stations of Discoms. The concerned SDO of the sub-station should ensure sending all the comments /suggestions on the tariff Petition received in the drop boxes to the Commission's office every month.

Similar approach has been adopted by the Uttarakhand Electricity Regulatory Commission. (The above provision can be included under the draft Regulation 5.8)

We request an opportunity of personal hearing be provided in order to further clarify/explain our submission in the aforesaid matter. Our suggestions are to ensure that the regulations are clear and unambiguous to avoid regulatory uncertainty, unnecessary litigation and costs & time due to the same.

The above submission is provided in three copies for kind perusal of the Commission.

Thanking You,

Yours faithfully,
For Council on Energy, Environment and Water

Prateek Aggarwal