

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

MONDAY, THE FIFTH DAY OF FEBRUARY

TWO THOUSAND AND TWENTY-FOUR

(05.02.2024)

Present

Justice C.V. Nagarjuna Reddy, Chairman

Sri Thakur Rama Singh, Member

Sri P.V.R. Reddy, Member

In the matter of

FIFTH AMENDMENT TO THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF TARIFF FOR WHEELING AND RETAIL SALE OF ELECTRICITY) REGULATION 2005, (Regulation 4 of 2005)

[Regulation 1 of 2024]

Introduction:

The erstwhile APERC (Andhra Pradesh Electricity Regulatory Commission) of the undivided Andhra Pradesh State notified the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation 4 of 2005) (hereinafter referred to as “the Principal Regulation”) which was published in the AP Extraordinary Gazette on 14.11.2005. The first amendment to the Principal Regulation was notified in the AP Extraordinary Gazette on 07.03.2014 (Regulation 1 of 2014) by the erstwhile APERC.

And the newly constituted APERC for the State of Andhra Pradesh, which came into existence w.e.f. 01.08.2014 post bifurcation of the undivided AP State, adopted the above Regulations, among others, vide APERC (Adaption) Regulation, 2014 (Regulation 4 of 2014). Subsequently, the APERC notified the second amendment to the Principal Regulation (Regulation 4 of 2021), a third amendment to the Principal Regulation (Regulation 2 of 2022), and a Fourth Amendment to the Principal Regulation (Regulation 2 of 2023) on 02.07.2021, 29.04.2022, and 29.03.2023 respectively in the AP Extraordinary Gazette.

The distribution licensees, having made a comparative analysis of regulations issued by various State Electricity Regulatory Commissions (SERCs), have requested the Commission to make the following amendments to the Principal Regulation:

- i. To allow the variations in sales and revenue from the sale of electricity to consumers as an uncontrollable item, and accordingly, pass to the consumers the gains/losses in a financial year in the ARR of the subsequent financial year based on the actuals;
- ii. To recognise the expenditure incurred on market purchases of power as working capital, and accordingly allow the interest on working capital based on the approved short-term power purchase cost in Retail Supply Tariff Order;
- iii. To allow the Bad-Debts up to 2 per cent of revenue receivables from the sale of electricity annually in the ARR for Retail Supply Business and True-up/down based on actuals subject to the ceiling of 2 per cent of revenue receivables. The recoveries, if any, from bad debts will be shown in non-tariff income;
- iv. To allow the Contingency Reserves of 0.5% of the original cost of Fixed Assets annually in ARR.

After thoroughly examining the DISCOMs' submissions, Model Tariff Regulations issued by the Forum of Regulators (FoR), Regulations issued by other SERCs, and other relevant aspects, the Commission, in exercise of the powers conferred on it under sub-sections (zd), (ze), and (zf) of Section 181(2) read with sections 61, 62 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, has decided to amend the APERC (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation No.4 of 2005). Accordingly, the Commission has prepared draft amendments to the principal regulation and placed a copy of the draft amendments along with a Public Notice on its website on 14.07.2023 inviting comments/suggestions/objections from all the stakeholders and interested parties for consideration by the Commission. In response, the Commission received comments/suggestions/ objections on the draft amendment from three stakeholders. The comments/suggestions/objections received on the draft amendment and the Commission's analysis and decisions on the same are discussed here under

1. **General**

Comments/views/suggestions:

Sri M. Venugopala Rao

As the subject draft amendment is issued at the request of DISCOMS, they shall respond to the submissions of the interested public. The The DISCOMs may be directed to respond to the submissions of objectors and the Commission may hold a public hearing.

AP Textile Mills Association

The consumers are entitled to study the submissions made by the DISCOMS. Hence, the same be made available to the stakeholders for analysis and for furnishing any additional comments/observations/objections/suggestions. The Commission may conduct a public hearing on the draft Regulation and allow the stakeholders to present their case either in person or in virtual mode.

Commission's analysis and decision:

As regards making available the submissions made by the DISCOMs to the Commission, the draft regulation incorporated a summary of the DISCOMs' submissions. Regarding the conduct of public hearings, it may be noted that the Commission, to meet the requirement of section 181 (3) of the Electricity Act, 2003 which specifies that all regulations made by the State Commission shall be subject to the condition of previous publication and also intending to provide wider reach, has placed the draft Regulation on its website inviting views/objections/suggestions from all the stakeholders including the general public. The Electricity (Procedure for Previous Publication) Rules, 2005 notified by the GoI, do not mandate the conduct of public hearings while making Regulations by the Commission. As per the above Rules, the Commission, before finalising the Regulation, shall publish the draft Regulation in such manner as it deems to be sufficient along with a notice specifying a date on or after which the draft will be taken into consideration and that the Commission shall consider any objection or suggestion which may be received by it from any person to the draft before the date so specified. The Commission has complied with the above requirements. In light of the fact that a fair opportunity for submitting stakeholders' views/objections is provided and they are being considered by the Commission, there is no need for a personal hearing.

2. Clause 5

Clause 5 of the draft Regulation reads as follows.

“Till such time the Distribution Licensee provides details of costs on an actual basis for the Distribution Business and Retail Supply Business separately, the costs shall be distributed between the Distribution Business and Retail Supply Business as shown in the table below:

Particulars	Distribution / Wires Business (%)	Retail Supply Business (%)
<i>Power Purchase Expenses</i>	0%	100%
<i>Intra-State, Inter-State Transmission & LDC Charges</i>	0%	100%
<i>Employee Expenses</i>	60%	40%
<i>Administration & General Expenses</i>	30%	70%
<i>Repair & Maintenance Expenses</i>	90%	10%
<i>Depreciation</i>	90%	10%
<i>Interest on Long-term Capital Loan</i>	100%	0%
<i>Interest on Working Capital</i>	10%	90%
<i>Interest on consumer security deposits</i>	0%	100%
<i>Bad Debts Written off</i>	0%	100%
<i>Income Tax</i>	90%	10%
<i>Contingency reserves, if any</i>	100%	0%
<i>Return on Equity/ Business margin</i>	90%	10%

Comments/views/suggestions:

Sri M. Venugopala Rao stated that, over the years, successive Commissions have been consistently directing the DISCOMs to furnish separate cost details for the distribution and retail supply businesses. However, these directives have

not been heeded. The DISCOMs have dragged this matter by not submitting a breakdown of costs for the distribution and retail supply businesses. Despite this, the APERC continues to consider the Multi-Year Tariff (MYT) applications for both the distribution and retail supply businesses, even in the absence of separate cost submissions from the DISCOMs.

The proposed amendment, integral to the regulation, enables DISCOMs to prolong the matter indefinitely by not providing a detailed breakdown of costs for the distribution and retail supply businesses.

AP Textile Mills Association expressed dissatisfaction that despite the Regulation being in effect for eighteen years, the distribution licensees have yet to furnish comprehensive cost details for a clear segregation of accounts between the Distribution and Retail Supply business. It suggested that the ARR for each business should be substantiated by an allocation statement, outlining the distribution of costs and revenues to that specific business. This statement must also elucidate the methodology employed for the allocation. It proposed allocation for two specific items, as shown in the table below:

Particulars	Distribution/Wires Business %	Retail supply Business %
Employee Expenses	75	25
Administrative & General Expenses	50	50

Commission's analysis and decision

Undoubtedly, till now DISCOMS have not segregated the costs between the Distribution Business and Retail Supply Business. The primary purpose of the proposed segregation is to account for the distinct activities of licensees, with no impact on Retail Supply Tariffs. Recognizing the need, the Commission has introduced an interim allocation statement until actual figures become available. In the RST order for FY2022-23, DISCOMS were directed to segregate the accounts of the Distribution Business and Retail Supply Business in their annual accounts from FY 2023-24. The suggestion made by AP Textiles regarding the allocation of costs has no basis, whereas the Commission carefully considered regulations from other Commissions and the Forum of Regulators before proposing the draft. Therefore, the Commission is not inclined to modify the ratio of costs related to employees' expenses and administrative & general expenses as proposed in the draft. Though there are no implications on retail

supply tariffs, to account for the distinct activities separately, the DISCOMS shall come out with actual allocations between Distribution and Retail supply Businesses in their forthcoming annual accounts as per the Regulation as approved in this Order.

3. Sub-clause 6.2.

Sub Clause 6.2 of the draft Regulation reads as follows.

“The ARR filing for the Distribution Business shall be for the entire control period. For the Retail Supply Business, the ARR filing shall be preferably for the entire control period, and on an annual basis if permitted by the Commission”.

Comments/views/suggestions:

Sri M. Venugopala Rao stated that the DISCOMs have been requesting and the successive Commissions have been permitting them annual filings which confirms that submitting ARR filings for retail supply business for the entire control period is problematic for valid reasons being put forth by the DISCOMs and that is confirmed repeatedly by the successive Commissions by allowing the DISCOMs to file their ARR submissions on annual basis every time over the years. The practice and the provision in the subject draft amendment, which allows the DISCOMs to seek permission from the Commission for filing their ARR petitions for retail supply business annually considering the experience is unwarranted. Therefore, the Commission may put an end to this hollow formality and amend the subject regulation to allow the DISCOMs to submit their ARR filings for retail supply business on an annual basis only.

Mr. S. Surya Prakasa Rao suggested that the principles and methodologies governing tariff determination should be outlined for a 5-year control period, mirroring the approach adopted by CERC. He proposed that applications for ARR and tariff for the Distribution Business should cover the entire control period, whereas, for the Retail Supply Business, the filings should be annual, aligning with practical consideration.

Commission’s analysis and decision

As per Section 61 of the Electricity Act, 2003, the appropriate Commission shall specify the terms and conditions for the determination of tariff following multi-year tariff principles. However, keeping in view the ground realities and experience, a provision is incorporated in the draft also for annual filings for the Retail Supply Business. Therefore, the Commission does not find any harm in providing for both options, i.e. multi-year and annual basis. Accordingly, the Commission is inclined to approve the provision as it is proposed.

4. **Sub-clause 10.4.**

Sub Clause 10.4 of the draft Regulation reads as follows.

Retail Supply Business	
ARR Item	"Controllable" / "Uncontrollable"
<i>Sale of Electricity to the Consumers</i>	<i>Uncontrollable</i>
<i>Revenue from the Sale of Electricity to Consumers</i>	<i>Uncontrollable</i>
<i>Inter-state and Intra-state Transmission & Load Despatch Charges</i>	<i>Uncontrollable</i>
<i>Interest on Consumer Security Deposits</i>	<i>Uncontrollable</i>
<i>Taxes on Income</i>	<i>Uncontrollable</i>
<i>Bad debts</i>	<i>Controllable</i>

Comments/views/suggestions:

(i) Sale of energy as an uncontrollable item.

AP Textile Mills Association strongly objected to the inclusion of the sale of energy and Revenue thereof from consumers as uncontrollable items on the ground that the same violates Sections 61 (b),(c),(d)&(e) of the Electricity Act, 2003. Hence, it is liable to be rejected.

Sri S.Surya Prakasa Rao stated that the Sale of Electricity to consumers should be a controllable item. Treating it as uncontrollable would mean inefficient forecasts of sales or entrepreneurship which should not be encouraged. He also stated that Revenue from the Sale of Electricity can never be treated as uncontrollable in a regulated regime.

Commission's analysis and decision

The cost of power purchase depends on the quantum of power purchase which in turn is arrived at by estimating the sales and grossing them up with losses. Since the cost of power purchase is a function of sales, categorizing the cost of power purchase as an uncontrollable item implies that sales are also uncontrollable. As revenue is a function of sales, the revenue shall also be considered uncontrollable. Further, another reason to consider energy sales as an uncontrollable item is they depend on the demand and consumption patterns of the end-users, which are influenced by various external factors, such as weather, economic activity, consumer behaviour, open access etc, which are beyond the control of DISCOMs. Furthermore, retail supply tariffs are being determined based on estimation, balancing the ARR and Revenue of the

DISCOMs. When ARR is Trued up/down on account of the uncontrollable nature of certain items like power purchase costs, taxes etc, it is essential to ensure a corresponding adjustment in revenue. Failing to true up/down revenue in conjunction with ARR adjustments would result in an imbalance between the ARR and revenue on an actual basis. This imbalance is unjust and not in the interest of both DISCOMs and consumers. Further, the proposed amendment is not only for true-up but also for true-down, and thus it is balancing the interest of the consumers and the DISCOMs. It is already in practice at the time of true-up/down for the entire control period but the present amendment paves the way for the annual accounting of such variations. Therefore, the Commission decides to approve the proposed clause as it is.

(ii) Intra-state and inter-state Transmission and Load Dispatch.

Comments/views/suggestions:

Sri M. Venugopala Rao

Under the retail supply business, inter-state and intra-state transmission and load despatch charges are shown as uncontrollable items. As the inter-state transmission and load despatch charges are under the jurisdiction of CERC, the role of the DISCOMs in protecting their interests and those of their consumers needs to be examined in light of new GNA regulations of CERC, which entail an increase in the deemed GNA quantum for Andhra Pradesh from the existing level of 1750 MW to 4516 MW. Additionally, a new 800 KV line is introduced in the regional component of Inter-State Transmission System (ISTS) charges, irrespective of whether a part of that capacity is contracted by the state of Andhra Pradesh. Treating short-term purchases for the last three years as the basis for determining the so-called GNA deemed quantum is irrational. All these actions of CERC have imposed additional CTU charges without an increase in the quantum of power from CGS for FY2023-24. He also highlighted many financial implications on DISCOMs on account of GNA regulations of CERC. He suggested that DISCOMs should actively seek a review of these perceived irrational and imbalanced regulations rather than seeking permission and approval from the Commission to pass these questionable burdens onto consumers through inclusion in retail supply tariffs or the Fuel and Power Purchase Cost Adjustment (FPPCA) later on. He urged the Commission to direct the DISCOMs to intervene in the regulatory process of CERC effectively, instead of remaining as mute spectators and relying on the fact that DISCOMs of some other states are contesting the irrational proposals of CERC.

Commission's Analysis and Decision

The GNA regulations were issued by the CERC following the due regulatory process after seeking views from the stakeholders. If there are any deficiencies in the GNA regulations or if they pose a disadvantage to AP, it is bounden duty of the DISCOMS to take measures to protect their interests and those of their consumers. The DISCOMS shall be proactive in participating in the regulatory process to protect their consumers' interests appropriately in all interstate transactions and they may host such actions taken on their websites for information to all the stakeholders. The interstate charges would also be applicable for power drawal from the exchanges and other sources and therefore even if drawal from CGS is not increased, there is likely an increase in CTU charges depending upon the drawal of power from the exchanges and other sources connected to ISTS on a real-time basis. Be that as it may, given the DISCOMS' lack of control over the determination of intra or inter-state transmission charges, except for submitting their views during the regulation-making process and subsequent legal course if any, these charges are appropriately categorized under uncontrollable items of the ARR.

5. Sub-clause 10.5

Sub-clause 10.5 of the draft Regulation reads as follows.

“Pass through of Gains/Losses due to variations in “uncontrollable” items of the ARR: *The Distribution Licensees shall present variations in each uncontrollable item with detailed reasoning. The aggregate gain/loss of the nth year in all uncontrollable items of Distribution and Retail Supply Businesses shall be pass-through in the ARR of the (n+2) year of Retail Supply Business in case the filings are done on an annual basis. If the filings of Retail Supply Business are done for the entire control period, the aggregate gain/loss in uncontrollable items shall be pass-through to consumers as a True-down/up in separate proceedings either based on the petition filed by the Licensees or on suo-motu by the Commission on an annual basis.*

Provided that the Commission shall allow the financing costs on account of the time gap between the time when the true-up becomes due and when it is actually allowed.”

Comments/views/suggestions:

Sri M. Venugopala Rao

Given that the Commission has proposed permitting financing costs due to the time gap between the time when true-up becomes due and when it is actually allowed in the draft amendment, it is important to ensure that the entire process is completed within the stipulated time in order to avoid the imposition of unnecessary "financing costs" on consumers.

Commission's analysis and decision

After considering the suggestion, the Commission modifies the clause as follows: **"Pass through of Gains/Losses due to variations in "uncontrollable" items of the ARR:** *The Distribution Licensees shall present variations in each uncontrollable item with detailed reasoning. The aggregate gain/loss of the nth year in all uncontrollable items of Distribution and Retail Supply Businesses shall be pass-through in the ARR of the (n+2) year of Retail Supply Business in case the filings are done on an annual basis. If the filings of Retail Supply Business are done for the entire control period, the aggregate gain/loss in uncontrollable items shall be pass-through to consumers as a True-down/up as determined in separate proceedings either based on the petition filed by the Licensees or on suo-motu by the Commission on an annual basis.*

*Provided that the Commission shall allow the financing costs on account of the time gap between the time when the true-up becomes due and when it is actually allowed. **The licensees shall file True-up/down petitions of the nth year by 30th November of (n+1) year independently or along with ARR & FPT petition if permitted annually, and the Commission shall as far as possible issue the Order on the same within 120 days from the date of such filings"***

6. Sub-clause 12.6

Sub-clause 12.6 of the draft Regulation reads as follows.

" 12.6 Provision for bad debts

Bad and doubtful debts in the ARR shall be allowed based on the actual written-off bad debts in the past 5 years as per the audited financial statements to the extent the Commission considers them appropriate subject to a ceiling limit of 1% of the yearly revenue at the discretion of the Commission:

Provided that, the cumulative bad debts shall not exceed 3 per cent of the yearly revenue for the ARR under consideration.

Provided further that subsequent to the write-off of a particular bad debt, if revenue is realised from such a bad debt, the same shall be included as income

under the Non-Tariff Income of that year.”

Comments/views/suggestions:

Sri M. Venugopala Rao stated that when bad debts are rightly treated as controllable, the question of writing off the same and allowing the DISCOMs to collect the same from other consumers under the retail supply business should not be permitted. Allowing the DISCOMs to collect the amounts of bad debts written off from other consumers is nothing but penalising the latter for the failures of the DISCOMs. The basis and justification for allowing bad debts to get accumulated and their writing off by the DISCOMs, and how and to what extent the Commission considers them “appropriate” are not explained. Therefore, the amendment should be dropped.

Commission’s analysis and decision

Bad debt refers to money owed to a company that is unlikely to be paid, often due to factors such as negligence, financial crises, or bankruptcy on the part of consumers. Recognized as a standard accounting item, bad debt is an unavoidable aspect of any business. Under the APSEB (Recovery of Dues) Rule, 1985, licensees are required to take all necessary steps to recover bad debts. While recovery may occur at a later date in some cases, any amounts recovered are proposed to be considered under Non-Tariff Income for that specific year. To deter licensees from accumulating such bad debts, it has been included under controllable items with specified limits for each year and cumulatively. The inclusion of bad debts in the ARR is contingent upon the Commission's satisfaction that it is appropriate to allow after exercise of sound discretion and even then, it is limited only to 1% of the yearly revenue. Therefore, the Commission is not inclined to accept the objection and retains the provision in the final regulation as proposed in the draft.

7. Clause 20 of Principal Regulation to be substituted:

Clause 20 of the draft Regulation reads as follows.

“20. Determination of full cost tariffs and subsidy:

20.1 The Commission shall determine full cost tariffs for Distribution and Retail Supply Businesses to enable the Distribution Licensee to recover the ARR approved by the Commission based on the application made by it in accordance with the principles laid down in this Regulation.

20.2 Subsidy

(a) The Commission shall determine the ARR and Tariff without considering subsidy.

Provided further that in case the State Government declares subsidy in advance or during tariff filing proceedings and the Distribution Licensee incorporates the subsidy in the petition, the Commission shall notify two tariff schedules, one with subsidy and the other without subsidy (full cost tariffs):

Provided also that the subsidy provided or declared by the Government shall be supported by documentary evidence of the time schedule of payment, mode of the payment of the subsidy and the break up of the subsidy amount into different subsidized consumer categories:

- (b) The Commission shall state in the tariff order, post the declaration from the Government, the quantum of the Government's subsidy applicable to the consumers category-wise, mode of payment and schedule of payment, etc.*
- (c) In case of no disbursement or delayed disbursement of subsidy by the Government, the Distribution Licensee shall charge consumers as per the full cost tariff schedule approved by the Commission, without considering the subsidy.*
- (d) The Distribution Licensee(s) shall submit to the Commission on a quarterly basis the information on subsidy due, subsidy overdue, and subsidy realized based on actual energy supplied to the subsidized categories of consumers. The report on subsidy status shall be hosted on the Distribution Licensee's website."*

Comments/views/suggestions:

AP Textile Mills Association stated that the above substitution is an important and necessary provision to protect DISCOMs from financial ruin.

Sri S. Surya Prakasa Rao

- a. Introducing a procedure for DISCOMS to claim subsidies could potentially lead to the government raising numerous queries on these claims to delay payment.
- b. The Commission may advise the State government under section 86 (2) to make a single lump-sum payment of subsidy, equivalent to three monthly full-cost tariffs applicable to subsidized consumers. This payment can be regarded as a continuous "Subsidy Deposit" for each year.
- c. The Commission may stipulate in the Tariff Order that DISCOMs must commence billing subsidized tariffs only after receiving the 3-month Subsidy Deposit. Additionally, the Commission may specify the monthly subsidy payment schedule based on the approved sales forecast.

- d. If, in any month, the Government fails to comply with the DISCOM's subsidy requirements, the DISCOM shall issue notices to subsidized consumers informing them that they will be charged the full-cost tariff starting from the 4th billing month, considering the defaulting billing month as the 1st. This provides a clear two-month notice to both the government and affected consumers to rectify the situation before being subjected to the full-cost tariff.

Sri M. Venugopala Rao

- a) The proposed modifications aim to streamline the implementation of the Direct Benefit Transfer (DBT) scheme by discontinuing the longstanding practice of presenting full-cost tariffs to the state government for all consumer categories. Instead, the new approach involves seeking the government's commitment to the amount of subsidy and the specific consumer categories it intends to support. Tariffs will then be determined, taking into account the agreed-upon subsidies for the identified consumers.
- b) When the government's commitment to providing subsidies is communicated in advance before finalizing and issuing the Retail Supply Tariff Order (RSTO), the proposed arrangement, which involves displaying full-cost tariffs, appears to be biased against consumers.
- c) The Commission does not confer legal sanctity upon commitments made by the state government to a quasi-judicial body with powers akin to a civil court. As a result, the government can potentially violate its subsidy commitments with impunity.
- d) The Commission lacks the authority to ensure that the government fulfils its commitment to provide subsidies to DISCOMs. However, it is proactive in instructing DISCOMs to collect full-cost tariffs from consumers in case the government fails to provide or delays the disbursement of committed subsidies. This directive seems to assume that DISCOMs have no recourse to pursue the government for the payment of committed subsidies and that written communication from the government, explicitly stating its inability to provide the committed subsidy, is unnecessary.
- e) Regarding the quarterly subsidy reports available on the Distribution Licensee's website, what actions does the Commission take with respect to these reports?
- f) The Ministry of Power, Government of India, has issued a Standard

Operating Procedure (SOP) on subsidy accounts and payments. While the legality of the SOP is not addressed, the Ministry remains silent on the course of action if a state government or Union Territory fails to pay the committed subsidy and provides for the payment of a Late Payment Surcharge (LPS) in case of delays. APERC is simply directing DISCOMs to collect full-cost tariffs from consumers if the GoAP does not fulfil its commitment to pay the agreed subsidy.

Commission's Analysis and Decision

The State Electricity Regulatory Commissions (SERCs) are entities established under the framework of the Electricity Act, 2003, with delineated functions and powers. Notably, the Act does not confer any authority upon the Commissions over the respective State Governments in any capacity. The Commission is mandated to operate strictly within the parameters defined by the Act and is obligated to be guided by the guidelines set forth by the National Electricity Policy (NEP) and National Tariff Policy.

Section 65 of the Act stipulates that if the State Government desires to provide any subsidy to any consumer or class of consumers within the tariff determined by the State Commission under Section 62, they shall, notwithstanding any direction which may be given under Section 108, pay in advance and in such manner as may be specified by the Commission, the amount to compensate the person affected by the subsidy, as a condition for the licence or any other person concerned to implement the subsidy provided by the State Government.

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.

Para 5.5.4 of NEP stipulates that the State Governments may give advance subsidy to the extent they consider appropriate in terms of section 65 of the Act in which case necessary budget provision would be required to be made in advance so that the utility does not suffer financial problems that may affect its operations. That effort would be made to ensure that the subsidies reach the targeted beneficiaries most transparently and efficiently.

Para 8.2.1 (3) of the National Tariff Policy (NTP) stipulates that Section 65 of the Act provides that no direction of the State Government regarding the grant of subsidy to consumers in the tariff determined by the State Commission shall be operative if the payment on account of subsidy as decided by the State

Commission is not made to the utilities and the tariff fixed by the State Commission shall be applicable from the date of issue of orders by the Commission in this regard. NTP further states that the State Commissions should ensure compliance with this provision of law to ensure the financial viability of the utilities. NTP also states that to ensure implementation of the provision of the law, the State Commission should determine the tariff initially, without considering the subsidy commitment by the State Government and subsidised tariff shall be arrived at thereafter considering the subsidy by the State Government for the respective categories of consumers.

The Commission in discharge of its functions, shall be guided by the National Electricity Policy, National Electricity Plan and Tariff Policy published under Section 3 under Section 86 (4) of the Electricity Act, 2003.

In compliance with the above, the Commission proposed the draft amendment. However, the Commission will continue to adhere to the present practice of seeking the Government's view on subsidies to be extended to different categories/classes of consumers before issuing the Retail Supply Tariff Order. Though the Standard Operating Procedure (SoP) issued by the Ministry of Power allows for the payment of a Late Payment Surcharge to DISCOMs in case of delayed subsidy payments by the State Government, the Commission cannot incorporate this provision into the final regulation in the absence of a specific provision in the Electricity Act. While the suggestions put forth by Sri Surya Prakasha Rao are noteworthy, they cannot be considered in contravention of the provisions laid out in the Electricity Act, National Electricity Policy (NEP), and National Tariff Policy (NTP). Since the inception of the regulatory regime, there has been no precedent where the State government reneged on the committed subsidy to DISCOMs, even though there were delays in payments. It is important to acknowledge that the State Government has supported the DISCOMs in the past, rescuing them from financial losses incurred. Therefore, stakeholders need not be apprehensive with regard to subsidy payments by the State Government. Further, the proposed amendment is not intended to pave the way for DBT and is not biased against consumers as contended by one of the objectors and it is merely an elaboration of the practice in vogue. The DISCOMs are also in no way prevented from pursuing with the Government on subsidy payment in advance or at a later date before implementing full cost tariffs determined in RST Orders by the proposed amendment. Further, hosting the subsidy information on the website of the DISCOMs will draw the attention

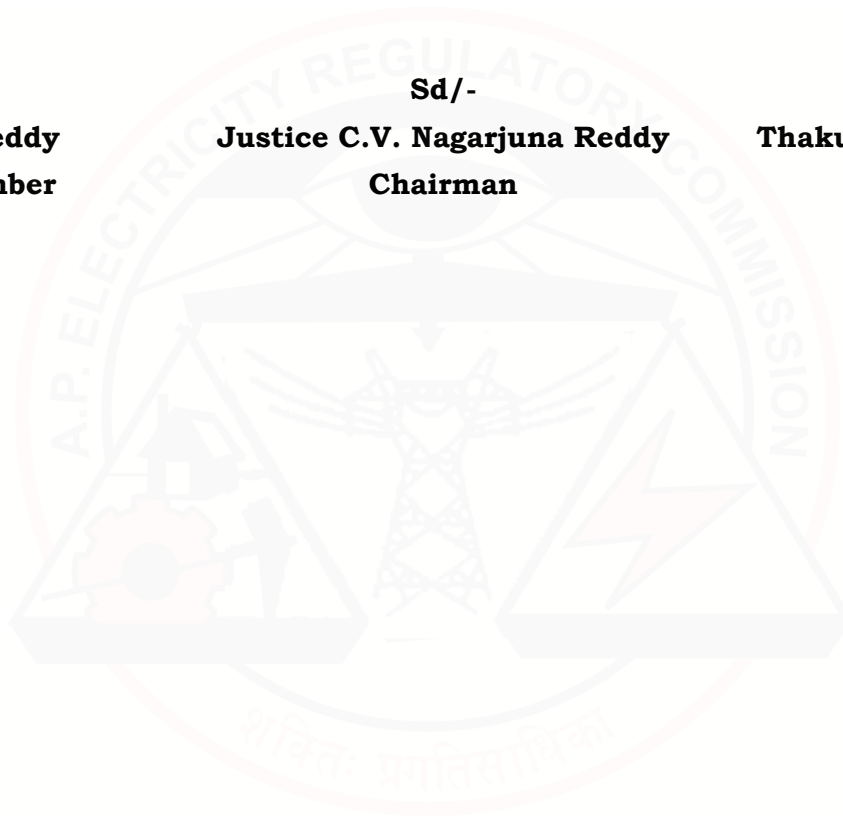
of the public to the actions of the Government in its commitment and hopefully deter the latter from making delayed subsidy payments to the DISCOMs. In light of the above, the Commission is inclined to retain the same clause in the final Regulation as proposed in the draft.

8. The Commission has decided to adopt the other amendments proposed in the draft without alterations in cases where stakeholders have neither submitted comments for modification nor expressed opposition.
9. In terms of the above decisions of the Commission, the fifth amendment to Regulation 4 of 2005 is finalised and the same is enclosed as Annexure to this Order.

Sd/-
P.V.R Reddy
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
Thakur Rama Singh
Member



Annexure

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

[Regulation 1 of 2024]

FIFTH AMENDMENT TO THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF TARIFF FOR WHEELING AND RETAIL SALE OF ELECTRICITY) REGULATION, 2005 (REGULATION NO. 4 OF 2005).

The Commission, in exercise of the powers conferred on it under sub-sections (zd), (ze), and (zf) of Section 181(2) read with Sections 61, 62 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, hereby amends the Principal Regulation as under.

1. Short title, Extent, and Commencement

- i. This Regulation shall be called the Fifth Amendment to Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation No.4 of 2005).
- ii. This Regulation shall extend to the whole of the State of Andhra Pradesh.
- iii. This Regulation shall come into force on the date of its publication in the Andhra Pradesh Gazette.

2. Clause 5 of the Principal Regulation shall be substituted as below:

“SEGREGATION OF ACCOUNTS INTO DISTRIBUTION AND RETAIL SUPPLY

Till such time the Distribution Licensee provides details of costs on an actual basis for the Distribution Business and Retail Supply Business separately, the costs shall be distributed between the Distribution Business and Retail Supply Business as shown in the table below:

Particulars	Distribution / Wires Business (%)	Retail Supply Business (%)
<i>Power Purchase Expenses</i>	<i>0%</i>	<i>100%</i>
<i>Intra-State, Inter-State Transmission & LDC Charges</i>	<i>0%</i>	<i>100%</i>

Particulars	Distribution / Wires Business (%)	Retail Supply Business (%)
<i>Employee Expenses</i>	60%	40%
<i>Administration & General Expenses</i>	30%	70%
<i>Repair & Maintenance Expenses</i>	90%	10%
<i>Depreciation</i>	90%	10%
<i>Interest on Long-term Capital Loan</i>	100%	0%
<i>Interest on Working Capital</i>	10%	90%
<i>Interest on consumer security deposits</i>	0%	100%
<i>Bad Debts Written off</i>	0%	100%
<i>Income Tax</i>	90%	10%
<i>Contingency reserves, if any</i>	100%	0%
<i>Return on Equity/Business margin</i>	90%	10%

3. Clause 6 heading shall be substituted with the following:

“FILING PROCEDURE, ISSUE OF THE ORDER, AND PUBLICATION OF TARIFFS”

4. Sub-clause 6.2 of the Principal Regulation shall be substituted with the following:

“The ARR filing for the Distribution Business shall be for the entire control period. For the Retail Supply Business, the ARR filing shall be preferably for the entire control period, and on an annual basis if permitted by the Commission.”

5. Sub-clause 6.3 of the Principal Regulation shall be read as Sub-clause 11.1

6. Sub-clause 6.4 of the Principal Regulation shall be deleted.

7. After sub-clause 6.2 of the Principal Regulation, the following new sub-clauses shall be added.

“6.3 The Distribution Licensee shall, along with the ARR & FPT petition, submit a statement on the status of compliance with directives, if any, issued by the Commission in its previous tariff order.

6.4 On submission of a complete application accompanied by all requisite information and particulars, the distribution licensee shall, within 3 (three) working days of an intimation given to him, publish a notice in at least 1 (one) English daily newspaper in English language and 1 (one) Telugu daily newspaper in Telugu language having wide circulation in the area to which the application pertains, outlining the proposed ARR & tariffs, as the case may be, and such other matters as may be stipulated by the Commission, and invite suggestions and objections from the public:

Provided that the distribution licensee shall make available a hard copy of the complete application to any interested party, at such locations and at such rates as may be stipulated by the Commission:

Provided further that the distribution licensee shall also place on its website, in downloadable spreadsheet format showing detailed computations, the application made to the Commission along with all regulatory filings, information and documents in the manner stipulated by the Commission:

Provided further that the web link to the information mentioned in the second proviso above shall be easily accessible, archived for downloading and shall be prominently displayed on the distribution licensee's website.

Explanation - for the purpose of this Regulation, the term “downloadable spreadsheet format” shall mean one (or multiple, linked) spreadsheet software files containing all assumptions, formulae, calculations, software macros, and outputs forming the basis of the application.

6.5 The Commission shall, within 120 (one hundred and twenty) days from receipt of a complete application for tariff determination and after considering all suggestions and objections received from the public:

(a) issue a Tariff Order accepting the application with such modifications or such conditions as may be specified in that Order;

(b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and the rules and Regulations made thereunder or the provisions of any other law for the time being in force:

Provided that the Distribution Licensee shall be provided a reasonable opportunity of being heard before rejecting its application.

6.6 The Distribution Licensee shall publish the tariff approved by the Commission in at least 1 (one) English daily newspaper in English language and 1 (one) Telugu daily newspaper in Telugu language having wide circulation in the area of supply and shall place the approved tariff/tariff schedule on its website and make available for sale, a booklet containing such tariff or tariffs, as the case may be, to any person on payment of reasonable charges.

6.7 The tariffs so published shall be in force from the date specified in the said Order and shall unless amended or revised, continue to be in force for such period as may be stipulated therein. The licensee shall raise the bills for the electricity supplied or transmitted or services rendered to the consumers in accordance with the notified tariff.

6.8 No tariff determined and notified as above may be amended more frequently than once in any financial year except that tariff rates shall be adjusted in accordance with the Fuel and Power Purchase Cost Adjustment (FPPCA) notified in the latest amendments to the Principal Regulation.”

8. Sub-clause 7.4 (c) of Principal Regulation shall be substituted with the following:

“(c) Each Tariff Proposal submitted by the Distribution Licensee shall be supported with a cost of service model as approved by the Commission from time to time in the previous tariff orders for each category of the consumers.”

9. The following sub-clauses shall be added after sub-clause 7.4 (c) of the Principal Regulation after deleting (d).

(d) The Distribution Licensee shall furnish to the Commission such additional information, particulars, and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.

(e) The Commission may, from time to time, issue guidelines for the filing of statements of revenue calculations and tariff proposals, and unless waived by the Commission, the licensee shall follow such guidelines issued by the

Commission.”

10. Under sub-clause 10.4 of the Principal Regulation, the following items shall be added to the existing items in the First table:

<i>Distribution Business</i>	
<i>ARR Item</i>	<i>"Controllable"/ "Uncontrollable"</i>
<i>Force Majure</i>	<i>Uncontrollable</i>
<i>Change in law</i>	<i>Uncontrollable</i>
<i>AT&C losses</i>	<i>Controllable</i>
<i>Contingency reserves</i>	<i>Uncontrollable</i>

11. Under sub-clause 10.4 of the Principal Regulation, the following items shall be added to the existing items in the Second table:

<i>Retail Supply Business</i>	
<i>ARR Item</i>	<i>"Controllable" / "Uncontrollable"</i>
<i>Sale of Electricity to the Consumers</i>	<i>Uncontrollable</i>
<i>Revenue from Sale of Electricity to Consumers</i>	<i>Uncontrollable</i>
<i>Inter-state and Intra-state Transmission & Load Despatch Charges</i>	<i>Uncontrollable</i>
<i>Interest on Consumer Security Deposits</i>	<i>Uncontrollable</i>
<i>Taxes on Income</i>	<i>Uncontrollable</i>
<i>Bad debts</i>	<i>Controllable</i>

12. **Sub-clause 10.5 of Principal Regulation shall be substituted with the following:**

“Pass through of Gains/Losses due to variations in “uncontrollable” items of the ARR: *The Distribution Licensees shall present variations in each uncontrollable item with detailed reasoning. The aggregate gain/loss of the nth year in all uncontrollable items of Distribution and Retail Supply Businesses shall be pass-through in the ARR of the (n+2) year of Retail Supply Business in case the filings are done on an annual basis. If the filings of Retail Supply Business are done for the entire control period, the aggregate gain/loss in uncontrollable items shall be pass-through to consumers as a True-down/up in separate proceedings either based on the petition filed by the Licensees or on suo-motu determination by the Commission on an annual basis.*

Provided that the Commission shall allow the financing costs on account of the time gap between the time when the true-up becomes due and when it is actually allowed. The licensees shall file True-up/down petitions of nth year by 30th November of (n+1) year independently or along with ARR & FPT petition if permitted annually, and the Commission shall as far as as possible issue the Order on the same within 120 days from the date of such filings”

13. **Sub-clauses 10.6, 10.7, and 10.8 of the Principal Regulation shall be substituted with the following:**

“10.6 Sharing of Gains/Losses due to variations in “controllable” items of the ARR: *The Distribution licensees shall present variations in each controllable item with detailed reasoning. The aggregate gain/loss of the nth control period (Actuals of 4 years and provisional for 5th year) in controllable items of Distribution and Retail Supply Businesses shall be pass-through in the respective ARR of (n+1) control period of Distribution & Retail Supply Businesses at the appropriate ratio for each item as decided by the Commission. However, the Licensees shall submit the gains/losses in each controllable item of the Distribution Business for the previous financial year by 30th November of the current financial year through the annual performance petition or shall submit the gains/losses in each controllable item as a part of ARR filings of the Retail Supply Business for the next financial year if the filings are done on an annual basis. The gains/losses in the controllable items of ARR on account of factors that are beyond the control of the Distribution*

Licensees shall be a passthrough to the consumers similar to the controllable items as stated in clause 10.5 above. “

14. Clause 11 of the Principal Regulation shall be substituted with the following:

“11. Main Items of ARR

Clause 6.3 of the Principal Regulation shall be placed here as clause 11.1

after (l), the following shall be added:

“(m) Contingency reserves, if any, on actuals basis, and as admissible”

11.2 *The Aggregate Revenue Requirement (ARR) of the Retail Supply Business shall contain the following:*

A. Network and LDC costs:

- i. Intra-State Transmission Cost*
- ii. Intra State LDC cost*
- iii. Inter-State Transmission cost*
- iv. Regional/NLDC cost*
- v. Distribution Cost (As per clause 5 & 11.1)*

B. Supply Costs:

- i. Power procurement cost*
- ii. Distribution Cost attributable to Retail Supply Business
(As per clause 5 & 11.1)*
- iii. Interest on Consumer Security Deposits*
- iv. Supply Margin in Retail Supply Business*
- v. Corrections for controllable and uncontrollable items*
- vi. Provision for bad debts*
- vii. Any other relevant expenditure as admissible “*

15. The following sub-clause shall be added after sub-clause 12.5 (FPPCA) of the Principal Regulation.

“ 12.6 Provision for bad debts

Bad and doubtful debts in the ARR shall be allowed based on the actual written-off bad debts in the past 5 years as per the audited financial statements to the extent the Commission considers them appropriate subject to a ceiling limit of 1%

of the yearly revenue at the discretion of the Commission:

Provided that, the cumulative bad debts shall not exceed 3 per cent of the yearly revenue for the ARR under consideration.

Provided further that subsequent to the write-off of a particular bad debt, if revenue is realised from such a bad debt, the same shall be included as income under the Non-Tariff Income of that year.”

16. Clause 20 of Principal Regulation shall be substituted with the following:

“20. Determination of full cost tariffs and subsidy:

20.1 The Commission shall determine full cost tariffs for Distribution and Retail Supply Businesses to enable the Distribution Licensee to recover the ARR approved by the Commission based on the application made by it in accordance with the principles laid down in this Regulation.

20.2 Subsidy

(a) The Commission shall determine the ARR and Tariff without considering subsidy.

Provided further that in case the State Government declares subsidy in advance or during tariff filing proceedings and the Distribution Licensee incorporates the subsidy in the petition, the Commission shall notify two tariff schedules, one with subsidy and the other without subsidy (full cost tariffs):

Provided also that the subsidy provided or declared by the Government shall be supported by documentary evidence of time schedule of payment, mode of the payment of the subsidy and the break up of the subsidy amount into different subsidized consumer categories:

(b) The Commission shall state in the tariff order, post the declaration from the Government, the quantum of Government's subsidy applicable to the consumers category wise, mode of payment and schedule of payment, etc.

(c) In case of no disbursement or delayed disbursement of subsidy by the Government, the Distribution Licensee shall charge consumers as per the full cost tariff schedule approved by the Commission, without considering the subsidy.

(d) The Distribution Licensee(s) shall submit to the Commission on a quarterly basis the information on subsidy due, subsidy overdue, and subsidy realized

based on actual energy supplied to the subsidized categories of consumers. The report on subsidy status shall be hosted on the Distribution Licensee's website.”

17. The following clauses shall be added after clause 24 of the Principal Regulation.

“25. Issue of orders and practice directions:

Subject to the provisions of the Electricity Act, 2003 and this Regulation, the Commission may, from time to time, issue orders and practice directions about the implementation of the Regulation and procedure to be followed and various matters which the Commission has been empowered by this Regulation to specify or direct.

26. Power to Remove difficulties:

If any difficulty arises in giving effect to any of the provisions of this Regulation, the Commission may, by a general or special order, do or undertake or direct the Licensees to do or undertake things which in the opinion of the Commission are necessary or expedient for removing the difficulties.

27. Power to Relax

The Commission may, by general or special order, for reasons to be recorded in writing and after giving an opportunity of hearing to the parties likely to be affected, relax or waive any of the provisions of these Regulations on its own motion or on an application made to it by any interested person. “

(BY ORDER OF THE HON'BLE COMMISSION)

Sd/-

**D. Ramanaiah Setty, JD/Tariff
For Commission Secretary**

Place: Hyderabad
Date: 05.02.2024