

Draft

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

[Regulation of 2023]

The Andhra Pradesh Electricity Regulatory Commission (Threshold Limit for the Development of Intra-State Transmission Projects under the Tariff Based Competitive Bidding) Regulation, 2023

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 Transmission of Electricity) Regulation, 2005 (Regulation 5 of 2005) under Sections 61, 62 and 63 of the Electricity Act, 2003, wherein it approved the Approach, Framework, Procedure, Filings and Principles for computation of Aggregate Revenue Requirement (ARR) and the determination of Transmission Tariff. This Regulation was published in the AP Extraordinary Gazette on 30.11.2005. Clause 21 of the said Regulation provides for the determination of tariff of intra-state transmission projects under the bidding process.

The Commission has taken cognizance of the Hon'ble Supreme Court Judgment dated 23rd November 2022 in Civil Appeal No. 1933 of 2022 (TATA power vs MERC), wherein the Hon'ble Supreme Court directed all State Electricity Regulatory Commissions (SERCs) to frame Regulations under Section 181 of the Act on the terms and conditions for determination of tariff. The Hon'ble Supreme Court further directed that Appropriate Commission(s) while framing the guidelines on the determination of tariff shall be guided by the principles specified under Section 61 of the Electricity Act, 2003, which encompasses the National Electricity Policy (NEP) and Tariff Policy (TP).

As per Tariff Policy 2016, the tariff of all new generation and transmission projects of companies owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding in accordance with the Tariff Policy notified on 6th January 2006 unless otherwise specified by the Central Government on a case to case basis. Further, the Tariff Policy specifies that intra-state transmission projects shall be developed by the State Government through the competitive bidding process for projects costing above a threshold limit which shall

be decided by the SERCs. The National Electricity Policy specifies that all efforts have to be made to bring the power industry under competition as early as possible in the overall interest of consumers.

On March 15, 2021, the Ministry of Power issued a letter in which it recommended to the State Governments the adoption of Tariff Based Competitive Bidding (TBCB) for the development of intra-state Transmission Systems. Furthermore, on August 21, 2023, in reference to the ruling of the Hon'ble Supreme Court mentioned earlier, the Ministry of Power sent a letter requesting the SERCs to notify the threshold limit for awarding Transmission Projects through TBCB.

In light of the above considerations, the Commission has conducted a thorough assessment of the investment approvals granted to APTRANSCO, the State Transmission Utility (STU), over the past four fiscal years, spanning from FY 2020-21 to FY 2023-24. This examination has revealed that among the 23 approved projects, approximately 43.5% or 10 projects have been executed, each entailing an investment exceeding Rs. 100 crores. In terms of monetary value, these 10 projects account for Rs. 3,354 crores of the total investment of Rs. 3,949 crores across all 23 projects, representing a significant 84.9% share of the total investment. Furthermore, when looking at the broader perspective of the 5th and 6th control periods, encompassing a total of 496 projects, it is noteworthy that all 28 of the identified projects required investments exceeding Rs. 100 crores each. However, in terms of cumulative investment in crores, these 28 projects amount to Rs. 9,085 crores out of the overall investment of Rs. 15,729 crores for the entire set of 496 projects, constituting approximately 57.8% of the total investment.

Hence, with the objective of fostering competition and minimizing the intra-state transmission tariff to the advantage of consumers, and considering the already established Tariff Based Competitive Bidding projects for Transmission Services at the national level and within various states, as well as the Ministry of Power (MoP) Guidelines that encourage competition in the development of transmission projects, along with the threshold limits set by other SERCs and the investment portfolio of the STU as stated earlier, the Commission frames a new draft Regulation which fixes the threshold limit for the development of Intra-State Transmission projects through TBCB in accordance with Section 63 of the Electricity Act, 2003.

Therefore, in exercise of the powers conferred under sub-sections (zd), (ze), (zf), and (zp) of Section 181(2) read with Sections 61, 63 and 86 (4) of the Electricity

Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, the Commission hereby publishes the draft Regulation as under:

1. Short title, commencement and interpretation

- (i) This Regulation may be called “The Andhra Pradesh Electricity Regulatory Commission (Threshold Limit for the Development of Intra-State Transmission Projects under Tariff Based Competitive Bidding) Regulation 2023”.
- (ii) This Regulation shall come into force from 01.04.2024, i.e., from the date of commencement of the 5th control period.

2. Definitions:

- A. “**Act**” means “The Electricity Act, 2003 (36 of 2003)”;
- B. “**Bid Process Coordinator or BPC**” means an agency notified by the State Government to coordinate the process of inviting bids for procurement of services for intra-state transmission of electricity through Tariff Based Competitive Bidding (TBCB) in accordance with the “Guidelines for competitive bidding” issued by the Central Government under Section 63 of the Act;
- C. “**Commission**” means the Andhra Pradesh Electricity Regulatory Commission;
- D. “**Control Period**” means a multi-year period comprising one or more financial years, as may be fixed by the Commission from time to time usually 5 years for which the principles for the determination of revenue requirement are stipulated.
- E. “**Empowered Committee**” means the Committee constituted by the State Government under the “Guidelines for Encouraging Competition in Development of Transmission Projects” issued by the Central Government for encouraging competition in the Development of intrastate transmission projects.
- F. “**Guidelines for competitive bidding**” means the guidelines issued by the Central Government from time to time in terms of Section 63 of the Act for the development of transmission projects;
- G. “**Financial “Year”**” means a period of twelve months from 1st April of a calendar year to 31st March of the following calendar year;
- H. “**New Intra State Transmission Projects**” means projects to be taken up for execution in the State of Andhra Pradesh (excluding the schemes involving the upgradation/augmentation of Assets forming part of the

existing Transmission Licensee or STU & Deposit works whose funds are accounted for under consumer contribution) from 01.04.2024.

- I. **“Project”** means an element or elements of the intra-state transmission system included in the transmission plan prepared by the State Transmission Utility (STU) for the control period, and approved by the Commission;
- J. **“STU”** means the Transmission Utility notified by the Government of Andhra Pradesh under section 39 (1) of the Electricity Act, 2003.
- K. **“TBCB”** means Tariff Based Competitive Bidding

Words and expressions used and not defined in this Regulation but defined in the Act shall have the meanings assigned to them in the Act. Expressions used herein but not specifically defined in this Regulation or in the Act but defined under any law passed by a competent legislature and applicable to the electricity industry in the state shall have the meaning assigned to them under such law.

3. Threshold Limit

- 3.1. The Commission hereby fixes the Threshold Limit of Rupees One Hundred (100) Crores excluding land cost for the new intra-state transmission projects to be awarded under TBCB. Accordingly, all new Intra-State Transmission Projects costing Rupees One Hundred (100) Crores or more formulated by STU and approved by the Commission shall be implemented through TBCB by the bid process coordinators as per the recommendations of the empowered committee to be constituted by the Government of Andhra Pradesh in accordance with the guidelines for competitive bidding notified by the Central Government from time to time.
- 3.2. The Threshold Limit fixed in this Regulation shall be applicable for all new Intra-State Transmission Projects for which approval is yet to be accorded by the Commission (excluding the projects for which application for in-principle approval is already submitted to the Commission and the same is under consideration by the Commission) or Commission’s approval is not valid or approval is revoked by the Commission, as the case may be.
- 3.3. The entire Intra-State independent transmission projects including any upstream/downstream project shall be designed as a single

project for inviting bids for the development of the project through TBCB.

- 3.4. In case the STU intends to implement any Intra-State Transmission System above the Threshold Limit through a cost-plus approach under Section 62 of the Act, due to some specific reasons such as the project being of a critical nature (e.g., Transmission System being developed for Defence, Railways, Airport, etc.) or there are issues involved in ownership or interface issues, i.e., where the ownership of new Intra-State Transmission System cannot be delineated from the assets of existing transmission assets, the STU shall obtain prior approval of the Commission for the same. Further, in case the STU intends to implement any Intra-State Transmission System below the Threshold Limit through Tariff Based Competitive Bidding, due to some specific reasons, the STU may implement such projects through Tariff Based Competitive Bidding if there are valid reasons to do so, with prior approval of the Commission.

4. Power to Relax

The Commission may, by general or special order, for reasons to be recorded in writing and after affording an opportunity for a 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.

5. 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.

6. 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 STU to do or undertake things which in the opinion of the Commission are necessary or expedient for removing the difficulties.

7. Power to Amend

The Commission may at any time, add, vary, alter, modify, or amend any provisions of this Regulation.

(By Order of the Commission)

Place: Hyderabad

Date: 08.09.2023



Commission Secretary (i/c)