PRAYAS
Initiatives in Health, Energy,
Learning and Parenthood

Athawale Corner, Karve Road, Deccan Gymkhana, Pune - 411 004, **INDIA**.
Tel.: +91(20) 25420720/56205726 Fax: 2542 0337. E-mail: prayasenergy@vsnl.com Web-site: www.prayaspune.org

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To,
Shri. Ajay Shankar,
Joint Secretary
Ministry of Power
New Delhi

Subject: Comments on the Report of the Task Force including Annex 1 and 2 that suggest National Tariff and Electricity Policy

Sir,

We wish to thank you for your letter dated 20th April 2004 requesting us to comment on the report of the Task Force. I am glad to submit the comments of Prayas on the report as well as on the two national policies.

This letter makes some broad comments on the Task Force report in part A. (page 1)

Comments on the drat National Tariff Policy (Appendix I to vol. I of the report) are included in part B of the letter. (page 9)

Comments on the draft National Electricity Policy (Appendix II to vol. I of the report) are included in part C of the letter. (page 21)

On behalf of Prayas I request you to give due consideration to our comments while making the next draft of the policy and also convey our comments on the TF report to the concerned persons in the Power and other ministries.

Thanking you,
Sincerely

(Girish Sant)

Part A: Comments on the Task Force Report

The Task Force had a very wide mandate and touches most critical issues in the power sector. Hence, it is a very important report. As the report deals with very wide range of issues, it demands detailed comments, which is not attempted here. At this juncture, we wish to point out some major issues / observations regarding the report.

1. Issues of process:

Prayas had made a presentation to the Task Force seven months ago, wherein we had requested the TF to make public the presentations and comments make by different stakeholders. The TF has come out with its first report (the most important part of the report), where it indicates acceptance of our suggestion. But the presentations made to the TF are still not made public. We are surprised that TF has still not managed even to compile the presentations made by different stakeholders! It points to the unwillingness to make them public. This does not go well with the basic principles of transparency, and does not inspire confidence in the process.

2. Dramatic suggestions – with limited supporting analysis

The Task force report makes several major suggestions in wide range of areas. We did not find either impact analysis of these suggestions or evaluation of options while the report made these suggestions. This is a serious issue considering the dramatic nature of the suggestions. The major suggestions are elaborated with a couple of examples below.

2.1 Banking, finance and fiscal regime

(a) Power sector bonds as SLR: The TF recommends several fundamental changes in banking and finance sector. These include the suggestion that the PS bonds issued by utilities and private companies (with appropriate rating) in power sector should be treated as part of Statutory Liquidity Reserve (SLR). With major financial institutions having doubtful debt (likely or declared NPA) related to the power sector worth several thousands of crore rupee, it is rather surprising that TF suggests equating liquidity and security of selected PS bonds with Treasury bonds or gold!

Moreover, (1) it would have been useful if the TF had named the utilities, companies that can potentially qualify the test of secure and liquid asset, (2) If it is so safe to invest in these power sector companies, the interest on these bonds should match the Treasury Bonds. But the TF suggests offering higher interest for these bonds.

(b) Relaxing regulatory norm: The RBI norm limits the exposure of banks / institutions to any individual borrower to 20% of bank's net worth and 50% in case of individual borrower group (if it is active in power sector). TF suggests raising this norm.

The TF supports this with an example of CPSU (presumably NTPC), by saying that at present net worth of IFIs, they can only lend Rs 18,000 Cr to a CPSU, which is said to be insufficient for meeting target capacity addition of that CPSU. But TF should have considered two additional factors (1) NTPC is not the only CPSU that can build power plants, (2) MoP can also form a new CPSU for power generation, which would reduce the pressure of capacity addition on NTPC, and (3) the data given by TF that the IFI growth is over 15% p.a., and may be more in the future. This would imply a limit of Rs 80,000 Cr for a single borrower in 2012 (which translates into 40,000 MW by a single entity assuming that IFIs contribute half of the project cost). Later on in the report (section 6.1 H) the TF also indicates that the total capacity addition by CPSU is expected to be around 47,000 MW in the decade of 2002-12. Hence the regulatory norm does not seem to be a big concern for CPSU expansion plans and validity of this argument may need a double check.

TF suggestion also considers that in case of group companies the '*other parts of the groups' business may be fully drawn*', even if power sector specific quota is available. Hence, we need to raise the norm. It would have been more illustrative if the TF had named the group companies that are likely to face such problems.

The TF seems to feel that attracting investment in the power sector is more important than promoting more number of players or preventing few large conglomerates to dominate the sector. But this is against the logic of enhancing competition (the said spirit of E Act and basic philosophy of TF) – which requires a large number of players at all levels.

(c) Fiscal regime: The TF has suggested several measures to reduce the cost of power generation. These include; (a) reduction of import duty on all power sector equipment to 5%, removing Special Additional Duty of 4% and making Counter Veiling Duty (CVD which balances the excise duty) modvatable (b) reduction of import duty on fuels, (c) power sector companies to be exempt from paying divident / distribution tax, (d) income tax exemption for new investments in the power sector, (e) public investments in the interest free bonds for power sector be allowed to be deducted from taxable income (f) states to reduce the stamp duty, not tax captive generation, reduction and harmonisation of taxes and duties (such as sales tax, electricity duty etc.).

On the other hand, the TF recommends, increase in government outgo on a number of counts (a) transition finance for supporting utility losses in the transition period (estimated by Deepak Parikh Committee at Rs 14,500 Cr/year), (b) For accomplishing the goal of electricity for all by 2012, there is need to extend the rural supply. The TF suggests that the GoI should help states by extending subsidy on both counts. The Deepak Parekh committee was set up before the E Act was passed. It needs to be checked if the estimates of transition funding (to distribution utilities) need a substantial revision due to specific provisions of E Act.

The likely reduction in power generation / purchase cost of utilities, due to tax concessions, would be highly welcome. But reducing cost of captive generation is not a priority – by freely allowing captive the large industry has already received substantial benefits. But it appears that the benefit of making 16% CVD modvatable will primarily go to the captive units and not to the public utilities. This will amount to subsidising the captive units over the distribution utilities. If the GoI wants to subsidize the captive units, it should be done only to the extent they are selling power to the distribution companies supplying rural areas.

Second, the TF should have worked out the net impact on the government finances due to combination of these factors. This is especially important in relation to the impacts on the state finances. Without such an analysis it would be difficult to form an opinion on these suggestions.

2.2 Estimate of investment requirement:

(a) Investment estimates: The TF indicates that "*It has been estimated that to achieve the stated goal of "Power for all by 2012", investments to the extent of Rs. 9,00,000 crore would be required in the sector"*. Of this, it says Rs 5,50,000 Cr would be necessary for generation addition and some more amounts for R&M. (section 5.2, page 116). This does not fit well present norm of Rs 3 to 4 Cr /MW and the said capacity addition of 1,00,000 MW in ten years.

(b) Capacity addition: Prayas had strongly suggested that the TF revisits the much talked about requirement of 100,000 MW in ten years. The TF report has justified this capacity addition target by indicating the projection of 16th EPS (Electric Power Survey of CEA) for energy requirement of 975,222 MU in year 2012. The demand side options, T&D loss reduction and R&M measures should be adequately represented in the plan.

The justification of 100,000 MW also comes from other sources, including (a) need to electrify all houses by 2012, (b) planned GDP growth rate of 8% etc. In case of household electrification, it is important to not just quantify the actual investment needed to electrify houses but also revenue subsidy needed to make electricity affordable to the houses. Assuming a subsidy of Rs 1.5/unit for the 9 crore houses consuming 30 units/month, the annual national subsidy works out to be Rs 5,000 Cr. (or Rs 25,000 Cr for a plan period). This subsidy would be over and above the infrastructure subsidy. In the section on rural electrification, the TF report mentions need for such subsidy but does not quantify it. On the other hand, if the economy continues growing at a fast rate, then it will positively impact several other factors, which also need to be considered. In short, it is inappropriate to only consider 100,000 MW or Rs 9,00,000 Cr in isolation without considering its drivers and their other implications, especially in the post E Act scenario.

(c) Need to avoid shortage psychosis: The TF report quotes two sets of numbers for contribution of capacity addition. Addition by private sector is said to be 22,000 MW on Page 117 (section 5.2) and 32,111 MW on page 168 (section 6.1 H). The contribution of the CPSU is scaled down correspondingly to 47,000 MW in the second citation.

Similar is the case in terms of estimate of capacity addition cost (Rs cr / MW). This ranges from 3.5 Cr to 5.5 Cr / MW, where as in competitive environment cost could be expected to be Rs 3.5 / MW or even lower.

It is important to prevent danger of getting into shortage psychosis, which can distort the policy decisions. And we have witnessed this phenomenon too many times in the past. In mid 1990s, the power ministry supported all IPPs by famous statements like "*No power is costlier than no power*"! This is especially important considering the sweeping changes in banking and finance sector suggested by such a high level committee.

2.3 NTPC break-up:

The logic given in the TF report to break NTPC into four companies is very brief. It includes (a) fear of mis-use of dominant position and (b) benefit of benchmark competition. We do not agree with the first logic and second point is quite small with limited impact. 85% of the NTPC capacity is tied up through PPAs, and the remaining 15% is either allocated by MoP or automatically passed on to the respective states the same share as the original 85% power. We feel that it is less likely that a CPSU would use means like false declaration to exercise market power. And if this happens, action should be taken against the CPSU by the appropriate RC (like any other PPA holder). The possibility of market domination can arise if the 15% unallocated share is allocated to NTPC for trading. Such move can have additional negative impact. The 15% power was meant for the states, which have paid for this capacity in the past. Now the states should not see cost increase for this capacity, just because we want to promote market. We suggest that the 15% unallocated share should be allocated to the constituent states in the same proportion as their original share. Excess power with the state Discoms would any way be available for trading and movement to the more needy state.

The logic of benchmark competition appears weak. The Tariff policy is suggesting incentive regulation and need for giving incentive for performance improvement. Hence issue of benchmark applies mainly for evolving tariff norms. For large plants such as once of NTPC, we should use international benchmarks, or use data of different plants in the country. Making four companies is not essential.

3. Role of RC and role of MoP

A major comment we have on the TF report is the role it suggests / recommends for the MoP and that for the regulatory commissions. We need to see this on the backdrop of three things.

First, the E Act has substantially reduced the policy freedom of state governments in the power sector – which was initially conceived as a concurrent subject. The E Act has created economic imperatives that substantially limit the role of states and forces them to shell out large amounts of subsidy. There was criticism that E Act leads to centralisation of policymaking power. The tariff policy and national electricity policy needs to be seen in this context. In addition, the TF is also recommending that GoI should directly

subsidise the state utilities (provided that states follow what the GoI considers as proper policy). This is a typical approach of agencies like World Bank – that link funding with loan conditions and being "progressive" or "reforming states". This would give increased authority to the GoI to direct states to follow a particular path of reforms.

Second, the formation of the RCs was a major institutional change that has taken place just five odd years ago. Such changes are rare and very important. These new institutions are supposed to be the corner stone for protecting public interest, having critical role even in the competitive environment.

Third, the E Act specifies the role of MoP under section 3(1). It expects the central government to prepare national electricity and tariff policy "*for development of power system based on optimal utilisation of resources …*" (emphasis added). This indicates a limited role of tariff and national electricity policy. The Parliamentary Standing Committee had two recommendations on this subject. It said (a) the states have to agree with the basic details and the policy / plan should give only broad outlines leaving the details to be worked out by the states. It also noted that the role of states is important. (b) the optimum utilisation of resources should be the prime considerations while drafting the National Electricity Policy and Tariff Policy. On the other hand, the E Act has very specific functions and duties for the RCs, including promotion of competition, tariff setting, etc. Hence the Tariff policy cannot encroach upon the duties and functions of the commissions.

On this backdrop, we find that the suggestions of the TF if implemented may amount to changing the role of GoI and RCs from what was conceived in the E Act.

(a) Role of GoI / MoP: The TF suggests that the GoI should take up a bigger role on defining power sector policies including details of policies. The Tariff policy suggested by the TF has commented seriously on many issues decided by the RCs and within the ambit of the functions of the RCs. This assumes a higher role of Tariff policy than that of the RCs.

(b) Role of RCs: In total contrast to that, the TF degrades the role of the RCs. In fact, it is reducing it to one of the stakeholders along with private utilities. For example, on several places in the report and the suggested Tariff policy, the TF says - "*Dispute resolution mechanisms should be defined clearly (in the MYT principles) and independent verification should be undertaken in case of disputes (between utility and the RC) on data and measurement*." It is rather surprising and akin to saying that if there is a dispute between one party and the judicial body on the validity of the evidence placed before the judicial body, the dispute between party and judicial body should be resolved by an independent body!

Because the state governments cannot function independently, we established the independent institutions called RCs. Now because utilities have grievances or rather disputes (to use the TF word), we are recommending third party arbitrators! This would be unending.

We should not forget that the RCs are quasi-judicial bodies and have to treat them as such. We wish to point out that Prayas was one of the first agency to come up with a detailed report on the functioning of the RC in association of, a panel of senior ex-officials (Dr Madhav Godbole, Dr E A S Sarma and Dr S L Rao). Prayas has, time and again pointed out limitations in functioning of RCs. But we are constrained to say that because there are some limitations in functioning of some institution, it is inappropriate to undermine the institution. Rather we have to take special efforts to strengthen these institutions.

We also recognise that several people have concern about the selection process of RC members, and are not totally comfortable with the appointments. We wish to point out that in the Prayas report on RCs, the expert panel had given several suggestions for improving the selection process. These or other such suggestions should be taken up – and if essential, modification in the Act may be considered.

In several cases of appeal against the RC order in the High Court, even the high courts have send back the RC orders (when the court finds it wrong), with a suggestion to RC to revisit the issue. The tariff policy seems to indicate that the CERC should rework most of its major orders in the recent period, including the terms and conditions for tariff, the order on inter-state transmission etc. If the MoP feels, that parts of CERC decision are wrong and harmful to the 'economy and efficiency' then it should point out these specific issues (with reasons) and should ask CERC to revisit these.

Lastly, we wish to point to the key role of independence and autonomy of RCs. During the whole process of reforms and privatisation all along the consumers are told that the RC would safeguard their interest. RC's role remains critical even when competitive market is established for bulk power or even retail supplies. Consumers are asked to maintain confidence in the RC's independence and autonomy. But the utilities or the MoP does not seem to have such confidence. Moreover, the MoP attempts to change the effective role and authority of RCs with simple policies. In this light, it would be difficult for consumers groups to continue keeping faith in the whole system.

4. Clarifying / resolving the contentious issue

The MoP has made some critical changes in the E Bill 2001 (after the report of the Standing Committee). These concepts were absent in the earlier drafts of Bill by the MoP consultant (NCAER), neither were in the Bill sent to the Standing Committee nor were recommended by the standing committee. These are the last minute changes done by ministry, after the public process was over. The example of these far reaching changes include:

1. Far expanded definition of captive generation (group captive) and
2. The proviso to section 14 related to the 2nd licence.

The MoP should take the opportunity to clarify all issues related to these and remove the complications that may arise from these. But it seems the TF report has not sufficiently done this.

1. Ownership of captive v/s usage – The definition of captive generation in the E Act is very wide and may allow even merchant plants to sell small number of shares to the intending purchaser. This way, what should fall under open access, and would qualify for cross-subsidy cess, can be easily shown as a captive plant and the users can avoid paying the cross-subsidy surcharge. This major loophole in the Act should be urgently addressed in the policy. Else it would undermine all provisions related to cross-subsidy cess. It is surprising that the TF report or the Tariff policy is silent on this subject.
2. Clarity about 2nd licence: Prayas has raised a number of issues related to 2nd (or parallel) distribution licence, through our letter to TF. It is good that the TF report has clarified some of these but several questions remain to be answered and some new questions are raised. For example, if a large metro like Mumbai of Delhi has three distribution utilities why does TF want to force the second licensee to apply for the whole of the metro and does not want to allow the second licensee to apply for area equal to one distribution utility?

5. Miscellaneous issues

5.1 Competition and privatisation perspective

It seems that the TF vision is to privatise urban area distribution and all generation, and make the sector competitive. But even from that perspective, there are major gaps in what TF is advocating (a) From this perspective, the TF should be concerned about few private players and the insufficient competition and vertical and horizontal integration of private players, (b) danger of making utilities fully dependent on the private generation and especially market driven volatile prices. (c) The rural areas will remain with public sector and hence criticality of improving public sector. Moreover, political haggling will start for subsidy within the states and among the states.

Privatisation of generation units should be the last option, as this is likely to increase the cost of power compared to alternate approaches to improve the performance of generation plant(s). Privatisation should be done only if R&M investments or management contract to CPSU (or other good public sector Genco) does not work. Even in that case, it may be worth trying management contract with private company rather than asset sale. This is a part of larger principle that the low cost power (wherever it exists) should be retained to ensure low cost of supply.

5.2 Information asymmetry and databases

It is urgent in the era of competition that the information asymmetry is reduced to the extent possible. The TF has no suggestion to do this. Time and again Prayas has suggested that CEA should take a lead role in creating a comprehensive database related

to costs, operating parameters, investments done in distribution, market cost of power and so on. Creating such as database is in fact a must and a duty of the MoP, which is promoting competitive structure of the power sector.

5.3 APDRP

The APRDR has two components, investment and incentive component. The TF has suggested that the incentive component should be increased and the investment component should be converted into central government support for transition finance for the distribution utilities.

(a) Incentive Component:

The proposal to increase the incentive component of APDRP needs more justification as the amount utilised in the recent years do not seem to justify the increase in budget.

The outline of this incentive component mentioned in the report raises some questions about how it will avoid misuse of this incentive. It can be elaborated with an example. The TF is suggesting a MYT framework for tariff. At present, most states do not have sufficient monitoring systems for service quality. Using this deficiency, some utility may avoid making investments and earn large profits. The increase in profit by this or such other (unjustified) means may be difficult to distinguish from genuine increase in profits through improved performance. And the APDRP incentive could be bagged by utility that is actually using a weakness in regulations.

(b) Tariff increase & Transition finance – Bailout package:

Increasing tariff (by adopting the present efficiency norm) and GoI giving cash subsidy for transition finance are very major change in the policy. The RC to decide ARR and tariff that can be passed on to consumes. The State government has to take up the burden of providing transition finance (with part being paid by GoI). This is nothing else but a bailout package.

We wonder whether the bailout package should be limited to the utilities that have not already undergone financial restructuring? The question is more relevant for the private sector. With privatisation of utility it is expected that the public funds would not continue (beyond pre-decided amounts) to be used for subsidizing its inefficiency.

The likely burden of such a step on the state finances should be worked out to take the states in confidence. Without such an exercise it is difficult to comment on the proposal.

Second issue relates to targeting the subsidy given by MoP / GoI. We feel that the MoP should set precedence and best practice by improved targeting of the subsidy it is planning to give.

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Part B: Comments on National Tariff Policy (Annex 1 to TF Report)

This section starts with few overriding comments on the national tariff policy (NTP in short). This is followed by section wise comments.

- The first and the most important comment on the NTP is the lack of supporting analysis and associated vulnerability of the NTP. We think it is inappropriate on part of MoP to go ahead with such an important policy initiative, without clearly articulating the tariff impacts. The TF should have carried out a detailed impact analysis of the proposed policy for five / six sample utilities – having different situations. It is also impossible for any consumer group to make accurate comment on the policy in absence of such analysis.

- The role of RC should not be altered by MoP through the NTP. The level of details and the issues coved may need some adjustment for this purpose.

Section 1 - 4
Ensuring reliable low cost power to all with least social and environmental impacts should be the overriding goal of NTP. Attracting investment may be a necessary condition for this primary goal. This should be reflected in the policy (wording of section 1 and 4 may be seen in this context).

1. Generation

The introductory comments to this section should mention that 'power procurement constitutes the largest share of costs. The RC should ensure that power procurement cost is minimised.

1.1 Section 5.1: Power procurement

(A) "As far as possible" and role of RC

Wording of 5.1 (1) is good. The MoP should consider adding some safeguards as discussed later.

It is understood that this section applies to the distribution utilities that desire the cost of power purchase to be passed on to consumers. Hence, the NTP should indicate that the RC should regulate all steps in this process. The RC should decide when it is impossible or unadvisable to procure electricity through competitive bidding and record the reasons for this in writing. The utility should be required to take RC permission for a specific kind of bidding.

In this context it will be responsibility of the RC to establish why it is not practical to carry out competitive bidding rather than allowing 'identified developer' or choose

'extension project'. (5.1 (4)). Usually, the extension project would be more economical than a green field project and it can succeed in competitive bidding.

The situations where bidding for EPC contract is allowed should be very limited. For such cases, MoP should develop benchmarks for other costs under the competitive bidding guidelines (section 63 of E Act). We wonder if promoter should be allowed to bid only for 'individual component packages' instead of EPC contract.

(B) Options for competitive bidding:

The power purchase requirement (i.e. base, intermediate load, or peaking or a combination of this) should be decided by RC, as per the available capacity and approved demand forecast. Type of capacity sought may be mentioned in the bid.

The tariff based bids (option b) is the preferred option only when the competitive bidding guidelines take due cognisance of likely front-loading of the tariff through instruments such as comparing levalised tariff. Specifying appropriate discount rate would be an important aspect of competitive bidding policy.

For avoidance of doubt, it may be advisable to clarify the interpretation of 'energy charges at normative level' (5.1 (2) option i), if the wording is retained.

(C) Competitive bidding norms by MoP (section 663 of E Act)

ICB norms by MoP would be very important in ensuring true and fair competition in the sector, and may control investments to the tune of tens of thousands of crore Rs each year! These norms should be well discussed and debated. MoP should give sufficient time for public comments and also make available the public comments before making these norms final.

The norms by MoP should clearly indicate how the promoter could pass on the benefit of higher efficiency of its plant (compared to the operational norms) by lowering its capacity charges or capital cost bid (which would be used only for tariff calculations and not for project financing). Certainty about operating norms is essential for any investor to be able to pass on such benefit in capital cost bids. Annually changing norms (by CEA) is a barrier to this.

It was way back in 1995, that the MoP had sought an end to MoU route. We should not have ever extending deadline for the MoU route projects to achieve financial closure. This is totally against the spirit of the E Act. Considering that it is nearly a decade that these projects have not been able to achieve financial close – they should not be allowed to go ahead. Else the MoU signed for 100,000 MW will be a never-ending episode.

(D) Ensuring Competition

Dominant position of purchaser can be misused in several ways to discriminate against competitors. These include administrative, procedural and implementation delays. Several countries have serious restrictions on companies (including even use of their logo for other unregulated business, restriction on sharing office space or information etc.) to ensure true competition. We feel that a limited step should be taken to ensure level playing field in this case. Any utility intending to set-up a power plant, should be allowed to sell its power to any other utility but should not be allowed to sell such power to itself or its affiliate companies This will reduce the danger of creating vertically integrated oligopoly and will be in the spirit of the E Act. A similar approach should be adopted for fuel procurement.

1.2. Section 5.2 - Duration of Contract

5.2 (1): It is suggested that increasing quantum of power should be procured from market. We feel, that having sizable long-term contracts is like having insurance against vagaries of market. The earlier vision of having competition on margin is a sound proposition. This is especially important until the markets stabilise and we have adequate experience of power markets.

It may be appropriate to mention here that California RC has mandated all utilities to do a forward contract for 90% of its peak power requirement, a year in advance, in accordance with lest cost integrated plan (including DSM). "*Utilities must forward-contract 90 percent of load plus reserves a year in advance for the summer months (May through September), but the Commission reserves the right to revise this if it creates market power problems.*" (Reference: Docket #: R.01-10-024, CPUC press release dated 22nd Jan 2004)

5.2 (2): It may be advisable to clearly mention that in some cases there were no formal contracts or no firm / rigid contracts. It was generally 'expected' that certain arrangements would continue. In such situations, the lack of contract (which was not abnormal due to earlier structure of the sector) should **not** be treated as lack of obligation on both parties.

5.2 (3): This clause suggests that generators should keep larger part of capacity to be sold through market. This statement has little relevance in NTP and may lend itself to increased space for discretion. Further, this is a commercial decision of private actors and they would take decision on this as they deem fit.

5.2 (4): The NTP suggests that the PPA terms should be reduced. We totally disagree with this perspective. Short-term contracts may be economical for the buyer ONLY if the tariff is not front-loaded and one is sure of reduction in generation cost in future. The minimum condition for this is that the loan tenure for the project is of similar duration as that of the life of the project. Unless both the conditions are met, long-term contracts

may be essential to capture benefit of the lower cost power in the later years or have insurance against vagaries of market.

In fact, we would go further and mention that as a part of standard contract, the buyer should have 'right of first refusal' for continuing the PPA on the same terms, after the expiry of the PPA. The buyer had paid for all the costs and should have this right. The NTP should specify this.

5.2 (5): It would be advisable to clarify the desired meaning and implication of "aligning the PPA with emerging market structures". Would this not create a major risk and uncertainty for the investors and lenders?

1.3. Section 5.3 – Tariff structuring and associated issues

(A) Return on Equity
Sub-section 2 is not essential. The CERC has said very similar thing. At the most the NTP can say that unless essential, the SERCs may consider adopting the norms developed by CERC (under "Terms and condition for tariff").

If the MoP feels that specific clauses in the CERC order are highly damaging or illogical, it may advice CERC to revisit these, along with reasons for MoP stand.

(B) Operating norms being on normative level & sharing of IDC saving:
This is reasonable. But we should make sure that investors can really factor in benefit of its efficiency being more than operating norm through lower tariff. Emphasis should be placed on creation of national database by CEA for operating norms and capital costs, so that the information asymmetry is removed and RC / consumers have easy access to data at the national level.

1.4. Section 5.4 – Operating norms for generation stations

The Act envisages CEA's role to be advisory in nature. Mandating CEA developed norms may not be appropriate. NTP should achieve a balance between application of uniform norms and same RoE through out the country against diminishing the role for RCs in tariff determination. Second problem in CEA updating the norms each year relates to uncertainty of norms. If promoter is to account for the likely higher efficiency of its plant (compared to the existing norms) and pass on the benefit in competitive bidding through lower capacity charge (or lower capital cost bids) then the promoter would need certainty about operating norms. From this perspective, it may be worth considering stability of norms for a period of five years after signing of contract. The actual norms may change but the tariff for first five years may be calculated based on norms in existence at the time of bidding. This may be applicable for all contracts signed during the next five years; till promoters gain confidence about stability / trajectory of operating norms.

It may be advisable that CERC decides RoE and norms for generation (in consultation with CEA). The SERCs can then decide the incentives.

1.5: Section 5.5 – Captive generation

(A) Procuring power from captive plants
We wonder why the NTP should encourage utilities and captive owners to mutually decide the tariff on a bilateral manner. If the cost is pass through, then there has to be a role of RC or the procurement should be done in competitive manner.

The data on installed capacity of captive plants is very sketchy and is of doubtful reliability. Hardly any data is available on operational parameters of these plans. It is a rather a sad comment on the data system in our country and it underscores the need for urgent attention towards creation of database by CEA.

(B) Ownership of captive plant:
Either the national electricity policy or NTP should clarify the issues related to ownership of captive plants v/s its actual use. Unless this is done, the NTP would be leaving a big loophole to bypass the provisions in the E Act that relate to 'cross-subsidy cess'.

1.6: Section 5.6 – Cogeneration and renewable sources:

5.6 (1) Quantity restriction and exclusion of HT industry
The E Act indicates that the RC may specify the minimum quantity of electricity that any utility should procure from such sources. The NTP should clarify that the minimum (and maximum) limit for such power procurement should be in relation to the total power handled by the utility and total green power – and not on the incremental purchase of green power. This is essential to protect some utilities that have already procured large quantum of green power.

The RCs should also specify consequences if the specified quantum of green power is not purchased by the utility. NTP may mention this.

This provision puts the burden of "renewable portfolio standard" only on the small customers! The large uses of power, especially the HT industry will increasingly go captive or purchase power from open access and will not have such restrictions. This is quite unfair. The ministry should consider some option to bring the large users in the net.

Tariff for green power
Some time ago, the MNES (ministry of non-conventional energy) conducted a study to decide appropriate mechanism to promote green power. We are of the view that competitive bidding should be made mandatory for such power procurement. Otherwise the large utilities will take this opportunity to build their own generation plants (based on renewable energy) and prevent other generators / promoters from competing. This is economically inefficient and against the spirit of E Act.

Ensuring Competition:
As mentioned earlier, to avoid misuse of dominant position of purchaser utility intending to set-up a green power plant, should be allowed to sell its green power to any other utility but should not be allowed to sell such green power to itself or its affiliate.

2. Transmission

To allow cost reflective tariff, it is a welcome step to have tariff that is sensitive to direction of flow, voltage, distance, and time of flow (congestion / quantum). But the details of how exactly this is to be worked out should be left to the CERC, as it involves tradeoffs which are best handled through a open public discourse and a reasoned order of RC. The CERC may be advised to revisit its order on this subject in a time bound manner (say in less than a year). If necessary, rewording of sub-section 6.2 (5) may be considered for this purpose.

Till the end of first control period of MYT the losses charged for each transfer could be linked to incremental losses to indicate the trend. The actual losses recovered from user could be a function of incremental losses with a ceiling and a floor. This may avoid use of national average losses for all transactions.

3. Distribution

3.1 Section 7.1 – MYT Principle

Some of the major weaknesses in present situation for implementing MYT are: (a) lack of service and supply quality monitoring, (b) lack of studies by RC to estimate the likely investments to meet desired service quality. (c) insufficient number of utilities and insufficient number of companies for benchmarking.

Time period to start MYT seems too short. The RCs would need at least a year to carry out desired studies and collect data from utilities to implement and monitor even reasonable level of MYT structure.

It would be advisable if MoP helps SERCs by carrying out some sample studies on investment requirement or by holding workshops for RC staff to share experiences / assist RCs implement MYT principles.

7.1.1 (4) & (5): **"Actual v/s desired levels"** & transition finance – A bail out package

Use of actual performance level for tariff setting instead of use of desired levels is one of the most critical sub-sections of NTP. This would create a clean slate for the utilities and 're-set' the RC targets given earlier. In a sense, it would erase the imprints of the RC process in the past. Tariff implications of this are very large. It is unfortunate that the TF has not estimated the impact of this provision and is a serious lacuna of the report and policy.

This is a bail out package. The concern relating to need to cover the losses being made by the utilities is understandable. But this cannot go on repeatedly especially for the private sector. For example, if this policy is adopted the whole basis of Delhi's privatisation will be squashed. Why should public money be used for the private sector's inability to meet the regulatory targets? If this is done, the whole rational for privatisation will be questioned.

We wonder if such package should only be given (1) only to the utilities that have not undergone financial restructuring or (2) only to the public sector utilities. With public sector it is understandable that the owner (i.e. the government has to pay for the losses and it can be treated as a process of quantifying the real level of losses / liabilities and asking government to pay for the same.

Finally, it needs to be recognised that asking the RCs to set tariff as per the 'actual performance' is a tacit admission of our inability of taking action against the utility's non-performance or utility not meeting the performance improvement norms. This has very serious implications.

GoI subsidy

If the GoI is planning to give any subsidy in the nature of transition finance, it should not be linked to conditionality of privatisation but should be linked to clear performance improvement agreements with either management (& workers in case of public sector). We will be happy to elaborate on this at a later point.

Review by RC and other issues

It is good that the NTP mentions a need for annual review of performance by RC, even though this is not linked to deciding tariff.

Section 7.1.2 (3) the time line seems too tight and it is unlikely that MYT can be implemented by April 2005. The wording may be "preferably by April 2005 or latest by April 2006".

Section 7.1.3 – description of 'controllable and non-controllable" items should be given as example. This may be mentioned in the section.

7.1.3 (3 & 5) – Dispute resolution between RC and utility. As mentioned earlier in the comment on the TF report, we find this inappropriate. The RC is a quasi-judicial body and an applicant may have grievance against its order but not dispute with the authority. Consumers should not be asked to rely on another independent body (to be constituted by RC and utility) and such body cannot have higher stature than that of the RC itself.

7.1.3 (11) – Allowing the utility to selectively lower tariff can be seen as commercial principle. But this is highly dangerous in the present situation. The public sector for example can be pressurised to give politically motivated discounts. Second, even if the utility does not claim the loss on account of such selective discounts in the ARR, it is eminently feasible that the loss will affect the overall service quality and ability to meet its license conditions. (This includes, the load shedding to low paying customers among other things). In the present situation it would not be possible for most RC to even identify such deterioration of performance. If it is identified and proved, one can argue that the RC should take appropriate action. But as seen from the experiences in several states the RCs are not in a position to take such actions. The example include UP or Orissa among several other states. In fact, NTP suggestion that tariff be set on actual efficiency levels and not on desired level is an acknowledgement of our inability to act on utility's non-performance. Hence, we feel that this provision needs to be reconsidered even when we see the need to make adjustments for competitive situation.

One option could be to ask the utility to treat such sales as part of its trading activity. The power purchased for such trading activity should be separately shown. The highest cost avoidable purchase should be allocated for such power trading activity. The utility then should separately file accounts for its trading and regulated business. The trading business should not encroach on the regulated business or its assets in any manner.

Additionally the utility should be asked to annually file a statement indicating the consumer wise (and area wise) amount of electricity sold and price at which it is sold to that consumer. The annual filling should also indicate the price of power purchase for such customers. This is in line with the trading license given by CERC.

If this is not done the small consumers will be at the receiving end of such competition. All large consumers will give threat of quitting the utility supply to get higher quota of the low cost power. Full transparency is the minimum requirement for monitoring the developing situation.

7.1.3 (12) – Under the competition of second license, the utility is allowed to give separate ARR. But what power purchase cost it should consider for such ARR is not specified. The utility may allocate the least cost sources for such area creating un-level field.

7.1.4 Incentive and benefit sharing mechanism

Section 7.1.4 (2) – This section advocates asymmetric sharing of benefit and losses between consumers and utility. This is not desirable especially in the initial years, when the targets will be uncertain and monitoring would be very poor. We do not agree that just because the utility has higher potential of making profits, RC can set tougher targets. Any slippage between the tough targets set by RC and actual performance will any way reflect as higher losses after the first control period (that includes asymmetric sharing).

Need for ceiling on profits: In light of lack of required studies, monitoring, and RC capability it is essential to put a cap on utility profits. This can be put in terms of total turnover of the utility or as a % of RoE. This can limit the damage in case of windfall gains.

Link of APDRP incentive: Whether APDRP incentive should be given to utilities that obtain windfall gains, or make profit at the cost of consumer service needs to be judged. Mechanism should be found to fish out such cases. This is also discussed earlier in the section that comments on TF report. If APDRP incentive is to be continued, it should be the responsibility of the utility to prove that utility has not resorted to any undue measures to increase its profits. RC's concurrence on such filling and its conclusion should be taken by MoP before granting the incentive.

7.1.4 (3) Incentive to employee: This is a management policy. It may be specified that it is meant for the public sector utilities.

Dangers of MYT

Conceptually, we have to move to MYT principles. But the big danger is partial adoption of principles. If a RC adopts MYT without associated performance monitoring or proper

annual reporting, then the consumers would be at the biggest disadvantage. The NTP should mention this, and say that it is a whole package and RC should take care of implementing the package. The RC should be asked to list down the areas that may potentially constitute inappropriate actions to increase profits.

7.2 Revenue Allowances and Costs

Sub-sections 1 (a, c etc) do reflect the historical inefficiencies. Allowing utilities to recover these costs is in line with the earlier logic of considering tariff to be set on; actual performance'. The tariff impact of such provisions needs to be worked out for some sample sates.

Subsection 7.2 (1) f – allowing utility to gain from lowering of interest rates should not become an incentive to show higher interest to start with. It is true that RC is expected to monitor this, but to be on the safer side, the gain to utility should be small (say 25% of saving). The wording of that sub clause could be, "a small part (may be 25%) of such saving may be shared with the utility".

Section 7.2 (2) a – it would be beneficial to clarify if the recovery and carrying cost of 'transition finance' is to be paid by consumers. If the answer to this is yes, the difference between 'Regulatory asset' and 'transition finance' should be spelt out.

7.2. (2) d – I is good that NTP is saying that regulatory asset should not be a repetitive process but NTP is suggesting that financial restructuring (of another kind) be repeated by having tariff set on actual performance.

7.3 Rate Base & Reasonable Return

Sub-section 7.3 (1) – The debt:equity ratio to be adopted for normative financing is mentioned as "… (70:30) should normally be adopted for **incremental** investments." This is a surprising deviation from similar statement in generation and transmission. There the statements indicate application of D:E norm on all of the base not just on incremental investment. This is in favour of the distribution companies that have done imprudent financing of investments in the past and have high share of equity.

This is a very major change in the tariff policy. It would be imprudent to set such a policy without a detailed analysis of its impact on profitability of licensee and consumer tariff.

Sub-section 7.3 (2) – This subsection would not be essential if the D:E ratio on total capital base is calculated, as suggested above. Another problem with the present wording of this sub-section is, that only the distribution company knows what equity is related to distribution business. It can show larger part of debt to linked to the un-regulated business and claim a higher share of equity to be linked to distribution business.

Second issue that related to this section is about the premium. As per the Companies Act, the premium cannot be freely used by distribution company and needs some approvals. Hence simply using this amount as equity may be problematic.

In any case, the TF report should have done analysis of the gainers and losers due to such a major shift in policy. Lack of such analysis is the critical non-transparent approach of the report.

Section 7.4 Tariff Design

Sub-section 7.4.1 (1) – the approach of keeping tariff of subsidizing categories constant in nominal terms is good. This will give an assurance of tariff trajectory to industry. The flip side relates to exodus of industries to captive generation. Hence, a proper definition of captive is essential.

But again without looking at numbers no comments can be made confidently.

Sub-section 7.4.1 (2) –Definition of life line tariff for households is fine. But even agricultural consumption below say 300 hrs/yr may be considered to be included in somewhat subsidised tariff.

Sub-section 7.4.2 (1) – LRMC for cross-subsidy cess

This concept is technically correct. But hardly any RC has calculated the LRMC. So we are not sure of the issues involved or the likely numbers. In case of highest marginal cost of power (as per the merit order) may result in cross-subsidy cess may be very small. Moreover, logically this should be 'highest cost of avoidable purchase' and not simply the highest cost of purchase. If the power purchase is not avoidable, it should go towards additional surcharge under section 42 (4) of E Act.

The danger in calculating the cross-subsidy cess in this manner is the large implication of some historical mistake. For example in Karnataka, AP, or Gujarat the high cost IPP will drive the calculation. For example, in case of MSEB the highest cost of power comes out to be nearly Rs 3.2 /u due to high cost liquid fuel project. The cross-subsidy cess would be negligible or zero. Hence, a time limit should be introduced for RCs to calculate the LRMC.

It would be very risky to give set out such policy without going into numbers for different states.

Sub-section 7.4.2 (3) – such transparent communication of costs is essential. Many people do not know that they are being subsidised or the extent of non-technical losses.

Section 7.5 – Other issues relating to distribution tariffs

Sub-section 7.5.1 – the usage of term "normal price response' is not adequately clear.

Sub-section 7.5.2 – In case of outage of generator supplying to a consumer under open access or captive consumer, the utility is expected to be a supplier of last resort. It needs to be clarified if the utility is liable to charge the consumer charges of STU, transmission losses, wheeling charges and cross-subsidy cess. Since the DISCOM will be expected to purchase more power from UI pool for such supply, the DISCOM would be liable to pay many of these charges.

There needs to be small barrier for people to quit and come back to the grid to avoid misuse of the facility and creation of large uncertainty for DISCOMS.

Another issue that bothers us is the fact that the UI charges are today kept low as the DISCOMS carry out load shedding. Hence, UI charges are not same as the balancing market price in some countries.

Critical role of service monitoring

We wish to repeat that the underlying assumption in many of the provisions is that the RC will monitor the load shedding, supply and service quality. Without such monitoring many of the above provisions would be prone to great misuse. The Discoms for example can supply a captive or open access consumer (in case of failure of his supplier) by increasing the load shedding. The NTP should have a separate section on this aspect. The section should also mention the need for RC to define steep fines for laps on part of utility.

This is especially critical when our utilities and the RCs are not even able to ascertain even the real number of pumps leave aside their consumption or the time when and duration for which power is supplied.

Sub-section 7.5.3 – This section is essential. It is important to separate the wires and supply business.

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Part C: Comments on National Electricity Policy (Annex II to TF Report)

Introduction:
National policy for a sector like electricity sector is a very crucial document outlining countries vision for the sector. Such a document is expected to be a comprehensive vision document guiding the development of the entire sector. It should address all key areas and aspects essential for the development of the sector as well as areas / stakeholders which will have significant impact of the developments in the sector. Unfortunately, the present policy fails to meet these expectations and needs to be revised significantly. Our comments are aimed at helping the Ministry to meet this challenge. In the next section (A), of these comments we share some of our overarching observations about the draft policy, Section B presents our suggestions on the key issues that need to be addressed in the policy and the third section C provides remaining specific section wise suggestions.

A] Overarching observations:

1. **Lack of comprehensiveness:** The present draft fails to address sufficiently a large set of critical issues relating to the electricity sector. For example, the policy does not address the issue or measures needed to foster 'true' and 'fair' competition in the sector or issues relating to systematic monitoring of supply quality and service quality. Section B of these comments attempts identify such missing areas which need to be incorporated in the policy and also provides specific examples of desired policy provisions. Another important observation in this context relates to the fact that the policy appears to be excessively focused on urban industrial section of the electricity sector. There are several provisions, aimed at this sector while the need of electricity, as essential development input for securing livelihood is not adequately addressed.
2. **Unrealistic timelines:** For effectively addressing the challenges before the sector it is essential that time-bound programs and targets be prepared. But many of the timelines envisaged in the policy are highly unrealistic and the concerned agencies will not be able to meet the same. This leads to diluting the influence of policy and negates the basic purpose. Hence, it is essential to stipulate realistic (at times even softer) times lines rather than unrealistic timing. For example, section 6.6.1 (c) requires SERC's to establish intra-state ABT within 6 months! Considering the complexities and technical requirements involved it is impossible to establish ABT within 6 months. In such situation there is a danger that either some half-backed systems will be put in place without adequate analysis etc. or the SERC's may simply ignore this as any way they will not be able to meet this deadline.
3. **Reiteration of existing initiatives and provisions:** Many times the policy simply reiterates existing initiatives and provisions of the Act, without any value addition. Some times this is done at the cost of ignoring some key issues. For example, section 6.7 on Private sector participation is largely a reiteration of the existing incentives provided to the sector and liberalisation of licensing required provided in the Electricity Act 03. But, this section does not even recognise issues such as need for effective regulation of the performance and operations of private licensees. Similarly sections 6.11.2 and 3 relating to consumer protection repeat the Act provisions of Ombudsman and Grievance redressal forum but

does not talk about need for capacity building of consumer organisations for effective participation in the regulatory process.

4. **Sweeping statements as well as too much details:** The policy is not at the uniform level of intervention in the sector. Sometimes the policy make very sweeping, general statements without taking cognisance of the economic implications (or discussing time frames) and sometime goes in too much detail and encroaches on role of regulators. For example, s. 6.1.3 says that 5% spinning reserve should be created, or s. 6.2.4 says that transmission capacity would be planned and built to cater to the redundancy levels and margins as per international standards *(which international standards?),* on the other hand s. 6.3.12 says that substation automation equipment should be installed in a time bound manner.

B] Key areas / issues that need to be addressed in the policy: Many key areas need to be addressed in the National Electricity Policy in the larger interest of the society and the sector. This section lists some of these issues / areas and also suggests the indicative policy provisions.

1. Social and environment impacts: The policy should explicitly recognise that the development of the sector (specifically generation and transmission projects) have significant social and environmental impacts (like displacement, loss of livelihoods, pollution, green house gas emissions etc.). These issues should not be considered as concern of only relevant ministries (e.g. environment ministry)[1]. Electricity policy should not be oblivious of these implications of the sector development. Hence a provision on the following lines should be included in the policy.

   "The development of the electricity sector has significant social and environmental implications and care should be taken to minimise adverse social and environmental impacts of the sector development and adequate measures should be taken to mitigate / compensate such adverse impacts."

2. Transparency and Accountability: Time and again it has been proved that lack of transparency and accountability of the various institutions and decision makers has been the root cause of multifaceted crisis in the sector. Hence, the policy should emphasise on the need for complete transparency and strong accountability. In this context a provision on following lines should be included in the policy.

   "Lack of adequate transparency and accountability is one of the key concern in the sector. Concerned state governments and ERC's should make concerted efforts to effectively address this concern. Some of the measures that could be adopted in this context are: effective and wider use of websites to publicise all aspects of decision making in the sector, informative and timely annual reports (of ERCs and licensees), effective use of commission advisory committees, periodic performance reviews of licenses by SERCs, periodic status reports about the health of the sector by state governments etc. Further the Forum of Regulators should also develop a 'Code of Practice for ERCs covering aspects such as time lines for disposal of cases, efforts

[1] This is similar to the issue of finances. The power ministry, Task Force and policies have significant discussion on the issue of raising finances for the sector. In this case this important issue not left for the finance ministry to tackle.

for consumer education, structure and details of reasoned orders etc. This should be done after wider consultation with ERCs and after inviting comments from consumer groups"

3. Systematic Monitoring of supply quality and quality of consumer service: In the restructured, competitive sector, effective monitoring of the supply quality as well quality of consumer service is a pre-requisite. Though sections 6.11.4 and 5 recognise this, there is a need to have much stronger policy guidelines considering the present state of affaires in different states. Hence we suggest that a provision on following lines be made in the policy.

"Quality of supply (voltage levels, frequency and duration of interruptions etc.) and quality of consumer service (in case of new connections, correct metering and billing etc.) are important from consumer perspective and significant efforts are needed to meet consumer expectations in this regard. In the envisaged competitive sector these are also important parameters for economic regulation of the sector. Hence, the SERCs should, on priority basis, establish stringent but achievable norms for different parameters relating to supply quality and service quality for all licensees. Initially these norms could be different for urban and rural areas to reflect the present ground realities. Moreover SERCs should ensure that ***effective systems are in place to monitor actual levels of these quality parameters****. To sensitise consumers as well as utilities about the need for significant improvements in these parameters over a period of time, SERC's may undertake half-yearly public consultation on the performance of licensees in relation to these quality standards and in the process adequate information about the licensees performance should be made public. SERC's may also consider seeking help of third party consultants and consumer associations for effective monitoring of licensees compliance with these norms."*

4. Issues relating to competition: The new vision for the sector heavily relies on benefits of competition in the sector. To make this vision a reality a number of key conditions need to be satisfied. We have been comments on related issues on other occasions (also pl. see our comments on tariff policy), but here we wish highlight two specific important issues.
    a. Need for more players in the distribution sector: Unfortunately, in the current Indian scenario practically there are only two (large) players in the distribution privatisation process. For effective competition and avoiding dangers of oligopoly there is a need to encourage many more players for the new privatised distribution utilities. Hence, the policy should specifically address this issue and it should give emphasis / priority for attracting new players in the distribution sector. Different options (structural as well as incentive etc.) for encouraging new players should be explored.
    b. Need to overcome the information asymmetry: Lack of adequate information or information asymmetry in another key hurdle in the effective competition. Hence the policy should emphasis on developing significant, reliable public domain database about key aspects of the power sector. The policy should require ERC's and CEA to provide specific attention and priority to develop and maintain such public domain databases. Some of the areas that such database should cover are technical and cost aspects of all generation and transmission projects (including captive projects), details of trading transactions, details of open access transactions etc. Under s. 74 of the Act

empowers / requires CEA to collect return / information from every licensee and generating company. Using this provision the CEA should be required to develop such comprehensive databases and the same should be updated periodically. If there is a need to maintain commercial confidentiality (though in our opinion there is no such need for several reasons) then this could be an anonymous database (i.e. database without identifying owner of a particular plants or a particular party)

c. Meaningful public participation and capacity building: In the new scenario the role of ERCs is very critical for protecting public and consumer interests. It is expected that consumer will participate in the regulatory process and they are expected to act as 'watch-dog' on the sector decision-making. Though the Act and various regulations developed by the ERCs have created significant spaces for consumer participation, the experience of regulatory process in many states clearly demonstrates that consumers often fail to effectively participate in the process. One of the primary reason for this is lack of capacity in consumer groups to properly understand this complex techno-economic sector and to undertake effective analysis. The national electricity policy should recognise this important lacuna and should provide guidelines for enhancing the capacity of the consumer groups. For this purpose provision on following lines could be considered in the policy.

"Meaningful and effective public participation is crucial for the success of independent regulatory process envisaged under the Act. To achieve this it is essential that adequate resources (financial as well as training) are made available for enhancing the capacity of consumer groups and for facilitating more participation in the regulatory process. For this purpose central and state governments as well as ERCs should develop appropriate mechanisms to provide financial and training support to consumer groups and other civil society agencies. ERCs should also consider devoting a part of their budget for such activities and may undertake awareness programs, preparation of literature etc."

d. Integrated resource plan (IRP), DSM and Energy Efficiency (EE): The present draft recognise the importance of issues such as DSM and Renewable energy. But there is a need to have stronger and clearer provisions in the policy about these issues. Following is the example of such desirable provisions.

"The Act envisages ERC's to regulate power purchase and procurement of the distribution licensees. For this purpose the ERC's are expected to approve the demand forecast and a capacity addition plan based on the same. While preparing such plans the ERCs should adequately consider likely contribution from various DSM and energy efficiency options as number of studies have shown significant cost economic potential for such options. To give a boost to such options and to gain practical experience, licensees should be required to implement suitable pilot DSM / EE programs. Initially, ERCs should consider devoting a small part of the licensees ARR for such pilot programs. Based on the experience of such programs, ERCs should

require licensees to develop least cost integrated resource plan for capacity addition program."

C] Specific section wise comments:

Apart from the major suggestions / comments presented above, our specific sectionwise suggestions / comments are presented below.

- **Section 4.1 National Plan:**
  - As discussed earlier the national electricity policy should address social and environmental concerns also. In this regard a provision on following lines should be considered in this section.

    "The national electricity plan to be prepared by the Authority will also analyse resource requirements for the implementation plan and it should evaluate the implications of the plan on project affect people, and requirement / availability of resources for effective resettlement and rehabilitation of project affected people."

- **Section 6.1 Generation**
  - S. 6.1.3 – The requirement of 5 % reserve needs to be moderated taking in to consideration the economic impact and hence is the objective should be to reach this target in medium to long term and not immediately (when even without such a margin utilities are unable to recover full cost)
  - In the case of hydro generation the policy should acknowledge the need to protect the interests of project-affected people also. Similarly, while advising the state governments to review the procedure for land acquisition, it should be made clear that such review should not compromise rights and interests of project affected people. Any sector development that compromises interests of such vulnerable and weaker sections of the society is not desirable and will be counter productive for the aim of quick capacity addition.
  - S. 6.1.17.1 Captive – We feel that this provision is a good example of how to balance policy guideline while respecting the state-wide differences and regulatory commissions.
  - S. 6.1.17.3 – Regarding the captive definition please see our comments relating to the ownership of captive plants in section 4 of part A.

- **Section 6.2.2 Transmission**
  - 3rd point – Though we understand and support the need for network strengthening, doing away **completely** with need for prior agreements with beneficiaries is not desirable. As this could lead to excessive investments in the network with the associated danger of 'stranded costs' and in such situation existing users will have to pay for these costs. Hence there should be clear criteria for network strengthening without requiring prior agreements (e.g. in cases where the system is already overloaded or is likely to be overloaded in near future or when a **number of** (and not just one or two) potential users will benefit from the proposed investments). Further it needs to be noted that often construction time for transmission lines is less (at the

most comparable) to that of generation plants and hence it should not be a problem to have prior agreements.
    - 4th Point – Structured information dissemination is a welcome provision. But this could be strengthened further by requiring the CTU and STU to make this available through websites also.
    - S. 6.2.4 – Transmission planning - Which international standards needs to be defined. Rather a better approach is to require CEA to develop standards appropriate for Indian situation based on international standards and experience.

- **Section 6.3 Distribution:**
    - The policy should clarify that for fair competition (through open access or multiple licensees) it is essential that there is a 'level playing field' between an incumbent utility and the new entrant. The policy should direct SERC's to take adequate steps through license conditions, tariff regulations etc. to ensure this. This point is not mentioned in either the NEP or NTP at all.
    - When Metros such as Delhi and Mumbai have more than one incumbent distribution licensees, it is contradictory to restrict entry of second (parallel) licensee only for the whole of Municipal Corporation area. To overcome this, the policy should also say that the area of second licensee could also be same as the areas of incumbent licensee.
    - S. 6.3.11 The move to HV distribution needs to be undertaken only if found economical.
    - S. 6.3.12 – SCADA – As mentioned earlier, this is too much detail and the policy should leave this out. Also this is prone to misinterpreted and many be used for justifying high cost schemes.

- **Section 6.4 Rural Electrification:**
    - Currently there are more than 4 million single point connections in the country. With the stated objective of power for all by 2012 the number of such single point / kutir-jyoti connections is likely to increase many times. For these highly dispersed, small consumers the cost of metering (including maintaining working meters), meter reading and billing is very high. Hence, in such cases innovative options such as use of load limiters (of say 100 watts) with flat tariff should be tried out on a pilot scale and if found suitable then it should be widely used. Use of low cost pre-paid meter is another such option that needs to be explored.

- **Section 6.5 Technology Development:**
    - There is a strong need to undertake significant technology development aimed at enhancing electricity supply in rural areas. Efficient, renewable, stand-alone low cost domestic lighting sources is one such area. Considering the massive need for investments in the rural sector to meet the Power For All by 2012 target, it is essential that adequate efforts are made to develop suitable technology. These efforts are likely to give very significant benefits in nearer term also.

- **Section 6.6 Trading and Market Development:**
    - As mentioned in the earlier section there is a strong need for public domain databases to foster competition by removing information asymmetry.

- S. 6.6.1 c Un-allocated power from central stations should not be thrown open for trading. Rather the rational for such unallocated quota needs to be revisited and the same should be allocated to existing beneficiaries in the same proportion. This is because; the stations were financed and built on the basis of power purchase by these beneficiaries.
- For ease of operational simplicity and preventing 'fly-by-night operators' and other market malpractices, the policy should require ERCs to prepare standard contracts / features of contract for trading and open access contracts. Further, to protect consumer interests all these contracts should have a standard provision providing that buyers can change suppliers / exit contract by giving 30 days notice. These are international best practices in the deregulated scenario and are desirable rather essential for market development.

- **Section 6.10 – Renewable Energy:**
  - Currently many agencies offer different benefits and concessions to renewable energy projects. As a result, often it is difficult to correctly assess the real quantum of incentives / concessions given to such projects and this distort the regulatory decision-making. Hence, it is essential that a suitable mechanism be put in place to compile all such concessions and incentives. MNES may be required to routinely publish such information.
  - There is another important issue in this regard. Over a period of time many large industries will go out of regulated distribution licensee and hence, all the burden of promoting renewable energy will fall on small regulated consumers. Hence there is a need to device a mechanism through which even the large consumer going out of distribution licensee will be required to share appropriate burden of renewable energy generation.

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