

# **Comments and Suggestions for the Draft Amendment of the National Tariff Policy Prayas (Energy Group)**

28<sup>th</sup> May 2015

These are our preliminary submissions on the draft amendment of the National Tariff Policy. Given the proposed changes in industry structure which will have wide-spread ramifications, it is vital that the Electricity Act Amendment and the proposed National Tariff Policy Amendment are not viewed in isolation. Therefore, our initial comments are also based on the draft of proposed Electricity Act Amendment in the public domain (i.e. Bill No.191 of 2014 as introduced in the Lok Sabha on 16<sup>th</sup> December 2014). There is a need for a comprehensive approach to provide a clear and unambiguous framework for the intended changes in the sector. We feel it is vital that the Ministry of Power consider changes proposed in the Electricity Act Amendment such that the National Tariff Policy (NTP) and National Electricity Policy (NEP), can support, provide direction to large scale structural changes in the sector . In this context, this submission covers following issues

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## I. Scope of Policy and the links with the Electricity Act Amendment

1. **NTP to be amended Post-Amendment of the Electricity Act:** Given the fact that the amendments to the Electricity Act are still being deliberated it seems premature to amend the National Tariff Policy (NTP) without incorporating the final changes from the Act Amendment process. We urge the Ministry of Power to issue another draft of the National Tariff Policy post amendment of the Electricity Act, 2003 and seek public consultation on the same as well.
2. **Scope and Nature of Policy Amendments:** The national tariff policy should provide a framework which delineates the intended direction of reforms. Given the vast differences across states, the policy should be flexible to incorporate state-specific realities in design and implementation. With electricity being a concurrent subject, such flexibility is enshrined in the constitution itself. The policy itself should have broad principles which the states are encouraged to adopt and adapt to their requirements.  
The amendments should also incorporate all the major lessons and learning from the implementation of the Electricity Act and policies, programs thereunder. In addition, the amendments should address challenges, new prospects in the sector such as, the emergence of new technologies, precarious financial position of distribution companies and the need to translate competition and efficiency to benefits for small consumers.
3. **NTP should clarify major changes in Electricity Act Amendment:** The proposed amendment is not clear about big ticket changes which can be addressed via the tariff policy. These include:
  - a. **Market Determination of supply licensee tariffs:** As per the proposed Electricity Act Amendment of Section 62, SERCs are to determine tariffs for all distribution and supply licensees for recovery of all prudent costs while ensuring elimination of revenue gaps through the tariff determination process. Nevertheless, clause 51D (5) provides for market determination of supply licensee charges. Given the fact that supply licensees will mainly cater to a limited segment of high paying consumers, it is right that their charges are market determined and their profits are subject to the vagaries of the market. The National Tariff Policy can clearly elucidate whether or not the new supply licensee's tariffs are cost plus and set principles and guidelines for market determination of tariffs.
  - b. **Ceiling Tariffs:** As per Section 62 of the proposed amendment, SERCs are expected to set category wise ceiling tariffs for supply licensees such that they can charge below these rates to encourage competition. The NTP can:
    - i. Elaborate on the principles on which ceiling tariffs are to be decided
    - ii. Clarify that ceiling tariffs will be decided for an area of supply or for each supply licence or for a load factor/load profile.
    - iii. Underscore that if supply licensees incur losses by selling at rates less than ceiling tariffs to a category of consumers, it should not adversely affect final tariffs or supply quality of any other category of consumers.

- iv. Ensure that on account of fuel cost increase or any such reason, if a supply licensee incurs losses after declaring tariffs lower than the ceiling, the cost of such business risk incurred should not be allowed to be passed on to its regulated consumers.
- c. **Recovery and settlement of CSS:** SERC are to determine cross subsidy surcharge (CSS) but it is not clear which entity the CSS would accrue to. Also, it is not clear whether (non-open access) consumers switching over to subsequent supply licensees are to pay any CSS. The national tariff policy should outline the mechanism for recovery, accrual and settlement of CSS from various entities (open access consumers, subsequent supply licensees etc.)
- d. **Guidelines for tariff determination and protection of small consumers:** Given structural changes envisioned and the subsequent widening and deepening of markets, there need to be clear principles and provisions to protect interests of small consumers. In this regard, the following guidelines for tariff determination need to be clearly stated in the NTP.
  - i. Tariff for all the regulated consumers shall be determined on a least cost principle using the actual merit order despatch of the capacity contracted by the supply licensee.
  - ii. Sale of surplus power by all supply licensees should be allowed only after entirely meeting demand of regulated consumers.
  - iii. Supply licensee cannot pass-through adverse impacts of transactions with open access consumers or other market based entities to regulated consumers.
- e. **Guidelines for provider of last resort:** With the planned carriage and content separation, the provider of last resort (PoLR) as defined in Section 2 (70B) of the proposed Amendment of the Electricity Act, has a crucial role to play. The PoLR will need to provide standby supply where possible while guaranteeing quality power supply to its regulated consumers. As this role involves significant risk, requires adequate planning, the national tariff policy must outline principles for designating a supplier as PoLR as well as guidelines for quantum, rates and duration for such supply. These guidelines could be such that quantum procured or rates do not adversely impact regulated consumers of the designated PoLR.

## II. Generation Related Provisions

1. **Competitive Bidding for Expansion Projects:** According to Para 5.1 of this proposed amendment, all future requirement of power should be procured competitively by distribution licensees, except in cases of expansion of existing state-owned or privately owned projects. In our opinion, given the inefficiency in implementation, long delays and consequent high capital costs for cost plus projects, all expansions of state owned and privately owned plants should be via competitive bidding. Competitive bidding is more lucrative for expansion projects as it will have the advantage of lower costs than Greenfield projects which can be transferred as benefits to consumers.
2. **Pass through of coal costs for competitively bid projects on a case to case basis:** Para 6.1 of talks of possible pass through of higher cost of imported/market based e-auction coal for making

up shortages with respect to assured procurement via CIL. This is in consonance with the advisory issued by Ministry of Power in OM no. FU-12/2011-IPC (Vol.-III) dated 31.7.2013. Such a provision would negate benefits of competitive tariff discovered through bidding process and would prove to be a major setback in establishing robust efficient long term competitive power markets in India. In order to preserve the sanctity of contracts and the legitimacy of the bidding process, any relief, if provided must be strictly as per bidding guidelines or as per the PPA provisions. As per the 2005 bidding guidelines, the bidders were given complete flexibility to quote both escalable and non-escalable charges for fuel cost. Accordingly, the bidders had the complete flexibility to procure fuel at any cost and from any location at any point of time. Strictly speaking, the coal supplier does not assume any contractual obligation to supply domestic coal as per the grade and/or quantity mentioned in the Letter of Assurance (LoA). The LoA makes it very explicit that in case of shortages, coal would be imported to meet such shortfall and the price of such imports will have to be entirely borne by the generator. Thus, based on the LoAs, it becomes clear that there is no contractual assurance being given with regard to quality, quantity or price. There has been no change in this framework for fuel allocation and/or fuel supply contracts and hence all bidders participated in the bidding process with the full knowledge of these risks. By providing any relief that effectively alters risk allocation for the winning bid, interest of neither the consumers nor competition is being served, as bidders who lost out at that time could now have been more competitive.

The 2014-15 Economic Survey of India notes that *“contracts are over-dependent on market wisdom, e.g., bidders in ultra-mega power projects (UMPP) could index tariff bids to both fuel prices and exchange rates, but almost all chose very limited indexation. When fuel prices rose and the rupee fell, these bids became unviable. To enforce market discipline and penalise reckless bidding, these projects should have been allowed to fail.”*<sup>1</sup>

Such post-facto modification of competitively discovered tariff is untenable under the existing contractual and legal frameworks. Hence, a policy directive advising Commissions to go beyond existing contractual, legal provisions as well as their regulatory mandate, cannot be in the interest of the sector, and can only lead to more litigation, that can be safely avoided. For these reasons, such a provision needs to be entirely eliminated from the tariff policy.

- 3. Utilisation of non-requisitioned generating capacity:** In order to better utilise non-requisitioned generating capacity of competitively bid projects, the draft Policy in Para 6.2 (1) if the procurer does not communicate generation not requisitioned by it at least two days in advance, the deemed generation benefit would be given to the generator, for the purpose of incentive. This is to be in effect notwithstanding any provisions in the PPA.

As a prudent and legally tenable practice, the National Tariff Policy should not encourage /mandate breach of PPA and in consequence, put additional burden on procurers or give unearned benefits to the generator. However, we appreciate the intention to utilise non-requisitioned capacity and feel it is best if such capacity is traded via short-term markets thereby increasing overall supply available. For this purpose Para 6.2 (1) could be changed on following lines:

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<sup>1</sup> Economic Survey 2015, Vol I Chapter 4: *The Investment Climate: Stalled Projects, Debt Overhang and the Equity Puzzle*

‘In case two days’ advance notice is not given, and power not requisitioned by the procurer, the generator shall be at liberty to sell power in Day Ahead Markets at either power exchange or via bilateral traders. If revenue from the sale of such power is more than the energy charge contracted via the PPA, then part (say, 50%) of this excess revenue should be shared with procurer.’

- 4. Monitoring and Conditionalities of free power from Hydro Power Plants:** As per the Para 5.1 (iii), 13% of free power (12% for the host Government and 1% for contribution towards Local Area Development Fund as constituted by the State Government) is to be provided to the State Government by the Hydro Power Developer. The developer is to also ensure project affected families are provided with 100 units of free power per month.

Provision of this power, contributing to the Local Area Development fund as well as 100 units of free power per month to project affected families is not monitored. The NTP should specify that this provision be monitored by the SERC and in case of non-compliance, the provision as per Para 5.1(d) to allow 40% of saleable design energy for merchant sales shall be disallowed and the power shall be apportioned among procurers at PPA rates.

- 4. Bundling power from RE sources with depreciated generating stations:** As per Para 5.3 (c) of the draft policy, power from depreciated generating plants may be bundled with the power from renewable energy sources such that the higher cost of bundled power is passed through for recovery and procurers can account for the same towards RPO obligations. Depreciated assets with low cost power should be allocated to promote access, ensure low tariffs for economically weaker sections. Our suggestion is that bundling of depreciated assets with renewable power should not be promoted. Instead such depreciated assets should be retained to serve low cost power allocation to small consumers as elucidated in Para 8.3 of the draft policy.

- 5. RPO Trajectory:** As per Para 6.4 (1), the long term growth trajectory of RPOs will be prescribed by MoP in consultation with MNRE in accordance with the targets laid down under NAPCC.

There is no clarity on time-frame for target, consideration for setting targets and its feasibility etc. GoI has already announced a target of 175 GW of Renewable power (100 GW solar and 60 GW wind) by 2022. NAPCC states a guiding target of 15% of renewable power in energy terms by 2020. Hence the long term growth trajectory of RPOs should necessarily specify guiding targets for all obligated entities (utilities, OA and CPP) till 2025 or 2030. This provision may be rephrased as:

‘ Long term **national** growth trajectory of RPOs **till 2025/2030** will be prescribed by the Ministry of Power in consultation with MNRE and in accordance with the targets laid down under NAPCC **in the medium term. Such a trajectory will be specified within one year of the notification of this amendment subject to studies which assess the retail tariff impact, financial health of the utility, grid integration readiness among other things.**’

- 6. Feasibility and Implications of Solar RPO targets:** Para 6.4 (1) (i) proposes a revised solar target from 3% by 2022 to 8% by March 2019. An 8% solar RPO nationally would mean a solar generation of 123 BU and a capacity of 70.5 GW by March 2019.<sup>2</sup> The present cost of solar power at Rs. 6.5/kWh, is still higher than power from new coal-based generating stations (~ INR

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<sup>2</sup> <http://mnre.gov.in/file-manager/UserFiles/Solar%20RPO/solar-RPO-requirement-by-2022.pdf>

3.5-4/kWh). Therefore the current incremental cost of procuring solar power vis-a-vis coal based power is about Rs. 4/kWh. Assuming all upcoming capacity is based on solar PV and assuming that the incremental cost halves to Rs. 2/kWh, the proposed RPO target implies an incremental cost of about **Rs.25,000 crores/ year**. Therefore, the incremental cost of enhanced RPO targets will have a significant impact on distribution companies with already precarious financial positions. Even if the incremental cost reduces at a much faster rate (due to economies of scale, technological breakthroughs, lower interest rates etc.) for solar projects while the cost of coal increases rapidly, it is highly likely that the financial burden on utilities will be substantial. Our suggestions in the matter are:

- a. **Need for reduction of Solar RPO:** An 8% solar RPO by 2019 is too high a target in the short run. Indeed it is unclear what strategic benefit the country derives from exploiting the high cost solar option in the short run in contrast to the much lower cost wind power option. It might be more realistic to expect a 3-4% solar RPO by 2019 considering the financial health of the utilities. While the NAPCC target of 15% renewables by 2020 is certainly something the country should aim for, insisting on meeting this target mainly through solar power is not the most cost-effective choice for the country.
  - b. **Increase flexibility to manage RPO:** Utilities may want to meet their overall RPOs through more cost effective RE, like wind in the short run (say up to 2018/19) and shift to solar thereafter. However, this is not possible with a specific and high solar RPO.
  - c. **Provide support for incremental cost incurred:** If GoI recommends that bulk of the overall RPO should be met through solar power, then it should support the incremental cost to the utilities either directly from the NCEF and/or through facilitative steps like solar parks, low interest loans/bonds etc.
  - d. **Need for equitable sharing of RPO:** Para 6.4 (1) (iii) states that, 'It is desirable that purchase of energy from renewable sources of energy takes place more or less in the same proportion in different States.' Given varying consumer mix, supply quality, shortages and the financial health across utilities, it is unclear why all utilities need to contribute in the same proportion to the national target. The NTP needs to introduce principles to equitably share national target amongst obligated entities. The national target could be apportioned among utilities in proportion to their paying ability – for which the proportion of sales to industrial, commercial and high use residential consumption could serve as a proxy. In addition, OA and CPP obligated entities are to have say, twice the RPO as is required by the utilities. This is certainly feasible bearing in mind that the draft Act amendment proposal to waive CSS charges for renewable energy based open access.
- 7. Competitive Bidding for Renewable Energy:** The need for competitive bidding for renewable energy has been emphasised in the National Electricity Policy, 2006 the National Tariff Policy, 2005 as well as the NAPCC. Despite the decade long policy emphasis and the rising price of conventional power, no action has been taken to introduce competitive bidding in wind. This is in spite of wind power approaching cost competitiveness with conventional power on a levelized basis. The wind sector in India is vertically integrated and despite being a mature technology,

has been benefitting from the sub-optimal feed-in tariff setting process. The existing information asymmetry in the public domain, lack of year on year degression rates, weak links between actual performance (CUF realised) and tariff payment period contributes to inefficient price discovery. Besides, the insufficient capital cost indexation formula which is unable to fully incorporate the technological and scaling improvements also contributes to non-transfer of efficiency gains to final consumers. The process of competitive bidding as a means of large scale utility procurement for mature RE technologies especially wind power should be initiated in all states while continuing successful bidding based price discovery in the solar sector. Thus, the amended National Tariff Policy must have a strong push for competitive bidding in mature RE technologies like wind. In this context, the National Tariff policy can incorporate the following:

- a. **Need for clarity in provisions to encourage competitive bidding in RE:** With respect to competitive bidding for RE, Para 6.4 (2) states that :

‘Such procurement by Distribution Licensees for future requirements shall be done, as far as possible, through competitive bidding process under Section 63 of the Act within the various suppliers offering energy from the same type of renewable energy sources.’

Yet, Para 6.4.(1) (iv) states that :

‘It will take some time before renewable technologies can compete with conventional sources in terms of cost of electricity. Therefore, procurement by distribution companies shall be done at preferential tariffs determined by the Appropriate Commission.’

Given the absence of a clear timeline and differentiation between RE technologies, these two provisions are at cross purposes to each other. Hence, the above clauses could be modified as follows.

Para 6.4 (2) could state that: ‘Such procurement by Distribution Licensees for future requirements shall be done, as far as possible, through competitive bidding process under Section 63 of the Act within the various suppliers offering energy from the same type of **mature** renewable energy sources **like wind and solar power**.’

Para 6.4 (1) (iv) could state that: ‘It will take some time before **modern/new/fledgling** renewable technologies can compete with conventional sources in terms of cost of electricity. Therefore, procurement by distribution companies shall be done at preferential tariffs determined by the Appropriate Commission.’

- b. **Need for clarity in provisions to ensure competitive bidding in RE is efficient:** Para 6.4(4) proposes that: ‘In order to incentivize the Distribution Companies to procure power from renewable sources of energy, the Central Government may notify, from time to time, an appropriate bid-based tariff framework for renewable energy, allowing the tariff to be increased progressively in a back-loaded manner over the life cycle of such a generating plant. Correspondingly, the procurer of such bid-based renewable energy shall comply with the tariff payment obligations throughout the said cycle of the generating plant.’

In order to ensure efficiency in power procurement and encourage competition, the provision may be modified as follows: ‘In order to incentivize the Distribution Companies to procure **least cost** power from renewable sources of energy, the Central Government **shall** notify, from time to time, an appropriate bid-based tariff framework for renewable energy,



allowing the tariff to be increased progressively in a back-loaded manner over the life cycle of such a generating plant.’

### III. Distribution, Monitoring and Tariff related Provisions

1. **Cap on CSS:** In Para 8.5, the draft amendment specifies that states have the flexibility to determine CSS independent of prescribed formula based on state realities. However, it also specifies that no CSS should exceed 15% of the tariff applicable to the relevant consumer category. In order to encourage Open Access, providing flexibility to states to determine CSS while ensuring a cap on CSS determined is a welcome step. However, given the expected large scale migration of consumers to Open Access, a cap at 15% on applicable tariff seems low and will not adequately compensate the distribution company with a large number of cross-subsidised consumers, in the transition phase. Moreover, a category wise cap on CSS as a proportion of applicable tariff may not work as the SERC may not determine tariff for certain categories post the Electricity Act amendment. In order to address the issue of quantum of CSS as well as the base for applying CSS, **the cap on CSS should be an absolute number, say Rs.3/kWh for all categories.** This way, in the initial years, utilities will receive substantial support while the absolute (in real terms) CSS will reduce automatically year on year.
2. **Tariff Surcharge to finance independent monitoring by SERCs:** The National Tariff Policy can specify a tariff surcharge applicable to all categories of consumers at say, 0.05 paise per unit. The proceeds from this surcharge which will be about Rs. 5 crores / year in Maharashtra and Rs. 70 lakhs / year for Bihar, an insignificant amount of about 0.01% of the Annual Revenue Requirement of Distribution Companies. The proceeds should contribute to a fund, the Regulatory Monitoring and Evaluation Fund which is to be used by the SERCs to ensure better monitoring of activities of licensees. This could include:
  - a. Setting up and running a Monitoring Committee for Intra- State Market Transactions.
  - b. Ensuring third party audits of capital expenditure undertaken on a 5 year basis.
  - c. Third party reports on energy audits and losses based on feeder level AMR data.
  - d. Third party evaluation of supply and service quality based on utility feeder level data and independent consumer surveys.
  - e. Annual public review of status of access and supply quality as well as a public review of large scale central sector and state level programs such as DDUJGY, IPDS, Power for All etc.
  - f. Ensuring an effective and functional information management system with historical data for all utilities.
  - g. Based on the data, ERC to conduct scenario building exercises and estimations to understand medium term impacts of markets, pace of capacity addition, increase in demand etc., on consumer tariffs and power supply.

Appointment of committees, consultants etc., from this fund must be done via a transparent process and subsequent reports and white papers published must be available in the public domain. In addition, ERCs must invite public comments and hold consultations on the findings of such studies to decide next steps to improve the functioning of licensees.

The NTP can make the Forum of Regulators responsible for issuing guidelines for:

- a. Creation of the Regulatory Monitoring and Evaluation Fund
- b. Use of said fund
- c. Various monitoring activities to be undertaken using the fund.

Provisioning for such a fund dedicated for performance monitoring will strongly encourage SERCs to undertake effective performance monitoring by making their performance monitoring mandate more explicit. This is very crucial in the context of proposed Amendments in the Act and resulting change in industry structure.

- 3. Experience with the MYT exercise and the need for long term planning:** The MYT framework was supposed to provide regulatory certainty to consumers, utilities and investors. This is because the framework had provisions to facilitate sound planning practices and processes, address risk sharing between utility and consumers based on controllable, uncontrollable factors and improve operational efficiency. Unfortunately, the MYT exercise was not implemented in letter and spirit in any state in India .Given the flux in the sector and the possible changes to affect utility business, it is imperative that the importance of the MYT framework and certainty in tariff be stressed.

The MYT exercise is usually independent of tariff determination in most states in India as annual revenue requirements are fixed for a 3 year or 5 year period but tariffs themselves are determined on an annual basis. More often than not, true-ups also happen for individual years independent of the MYT process defeating the purpose of risk sharing inherent in the MYT process. In order to ensure regulatory certainty the national tariff policy should specify that:

- a. Tariffs determination for all utilities will be based on the MYT framework with the **tariffs being decided together for a period of say, three years.**
- b. The tariff determination exercise should also include:
  - i. Proper demand estimation exercise based on macroeconomic indicators, progress of government development programs, environmental/resource factors (e.g.-power required by agricultural sector to access water etc.), historic trends of sales, elasticity of sales to tariffs, historic trends of migration of consumers to open access and renewable options, change in appliances used etc.
  - ii. Scenario building exercises to assess impact of increase in number of captive plants, open access, advances in renewable technology and its uptake, energy efficiency schemes and the proposed electricity act amendment on future demand and utility finances.
  - iii. Estimation of costs to assess impact of costs and power shortage due delay in commissioning of plants in pipeline and deferment due to not getting environmental clearances.
  - iv. Exploration of options to tackle accumulating losses in the transition period via market borrowings, change in tariff design and State Government support etc.
  - v. In order to account for uncontrollable factors which affect utility operations, specific adjustment factors must be identified which account for changes in interest rates, fuel cost, tax and cess etc. Any variation in costs from the base scenario approved for tariff determination, due to these factors will be adjusted on a quarterly basis.
  - vi. Mid-term review process under the MYT framework will true-up costs based on risk sharing mechanisms as per MYT regulations of the respective SERC.

- 8. Performance Evaluation of Distribution and Supply Licensees:** The performance and viability of distribution companies has always been crucial to the health of the power sector. Consequently, the deteriorating operational and financial position of these utilities has been detrimental to the success of large scale central sector policies, programs and has eroded the benefits from subsequent investments. These issues will persist with the new supply licensees as well. In order to evaluate performance of utilities and increase their accountability, the Central Government can develop performance criteria such that different distribution and supply licensees are graded based on their performance on each criteria. Such performance criteria can include:
- a. Status of feeder level AMR metering and use of such feeder level data for energy audits.
  - b. Instituting and implementing a load shedding protocol after due public consultation such that shortages are shared on an equitable basis. Such a protocol should be periodically revised based on public consultation.
  - c. Permitting high cost short term power purchase only if expenditure is recovered via additional supply charge levied on consumers who are willing to pay charge.
  - d. Circle-wise AT&C loss reduction as per SERC approved trajectory for different groups of circles with similar loss levels.
  - e. The utilities must also ensure the following reports, if applicable to their operations are available in the public domain:
    - i. Quarterly reports on borrowing for revenue and capital expenditure, along with term of loans, details of lender, purpose of loan and interest rates.
    - ii. Quarterly Division wise average hours of supply based on feeder level data
    - iii. Bi-annual reports on progress made on CSS schemes
    - iv. Annual reports on DPR and non DPR capital expenditure project with expected benefits and realised benefit after the completion of each work.

The Central Government should devise benchmarks to evaluate information and categorise states based on performance grades. Based on the composite grades achieved by the utility, the central government can rank utilities such that those which obtain above a certain rank are eligible for Central Government funding. Such funding (up to Rs. 200-250 crores per state) should be available only for a predefined set of projects.

- 9. Treatment of Regulatory Assets:** Para 8.2.2 states that regulatory assets should be created only as a rare exception in case of natural calamity or force majeure. Further Para 8.2.2 (b) states that outstanding regulatory assets should be recovered in a time-bound manner within a period not exceeding seven years. Our concerns with this proposal are highlighted below:
- a. **Lack of clarity:** There is no definition of what qualifies as a force majeure event as per Para 8.2.2. There is also ambiguity on what constitutes business as usual (as per Para 8.2.2 (a)), under which the creation of regulatory assets shall not be allowed. Given the tendency of regulators to limit tariff impact and keeping in mind that revenue gaps need to be eliminated in the coming years, the question of what constitutes force majeure and what qualifies as business as usual is crucial to avoid unnecessary and time-consuming litigation. This is especially true as the utilities' 'business as usual' is bound to change in the coming years with the operationalization of open access, proliferation of renewable technologies and the emergence of multiple supply licensees.

- b. **Treatment of revenue gaps:** Most states also have significant unmet gaps or accumulated revenue gaps on which regulators levy carrying cost and stagger recovery. These losses should also qualify as regulatory assets as their treatment is the same.
- c. **Addressing cause of accumulating losses:** Regulatory assets and accumulated losses are usually products of wilful negligence by regulatory commissions and gross inefficiencies of the utility. The price of this is unfairly borne by the consumer. Hence, as proposed in Para 8.2.2 (b), the National Tariff Policy should state that accumulated revenue gaps have to be exhausted within 7 years. Such rapid dissolution must be done after due consultation and after exploring other possibilities (partial or complete support from state governments) to prevent tariff shocks for consumers. Additionally, the national tariff policy should clearly state that the ERCs should not allow pass-through of any cost which is more than three years old (unless born out of a judicial pronouncement). Thus, any costs or carrying costs from true-ups of the licensee or other companies older than 3 years should not be included in the ARR of utilities. Such a strong provision will dissuade utilities and state governments from not claiming full costs as part of ARR or claiming costs after a long time lag, as non-claiming full costs in a timely manner would imply that ultimately state governments will have to pay for these costs. This will protect utilities balance sheet.

**10. Monitoring short-term market development:** In order to ensure market operations and efficient discovery of tariffs, it is equally important to monitor markets operations especially short term markets. CERC monitors intra-state bilateral trade via trading licensees and trade via power exchanges and publishes regular reports about major trends. Regrettably, there is no information on intra-state trade by trading licensees or the distribution companies. Given the expected proliferation of markets, the national tariff policy should say that all SERCs must introduce regulations for monitoring intra-state trade and report information and major trends on a periodic basis via publically available reports, like the CERC market monitoring reports.

**11. Time bound assessment of baseline data:** Para 8.2.1 (2) reiterates the need for independent assessment of baseline AT&C loss by provisioning independent scrutiny of licensee's baseline financial and technical data as well as its metering efforts. Nonetheless, this assessment is not time-bound as it was in the earlier policy. The dearth of adequate and accurate baseline data was one of major reasons for limited success for large programs like R-APDRP and experiments with input based distribution franchisees. With more than Rs.80, 000 crores being allocated for all activities under DDUGJY and IPDS, it is important that there is a time-bound (say, by 2017) collection and independent assessment of baseline data disaggregated to the division level available in the public domain. This should be accompanied with time-bound targets for completion of automatic metering of distribution network (DT and Feeder Level).

**12. Allocation of low cost power for all small consumers and better supply quality:** Para 8.3 says that Agriculture and BPL consumers are to be provided with the cheapest source of power but this is subject to reduction in AT&C loss by a certain pre-specified percentage. This is a major step towards addressing the structural disincentive of utilities to supply to small consumers and the resultant poor quality supply. However, it will be helpful to have more clarity with respect to

many aspects of this provision to ensure effective implementation. National Tariff Policy can provide clear guidelines to facilitate and monitor low-cost power allocation on the following lines:

- i. The provision should be for allocation of low cost power for all small consumers not just cheapest power for BPL and agricultural consumers. This would support Gol's vision to provide 24 x 7 Power For All by 2019
- ii. In order to ensure this, SERCs can estimate energy requirement of small LT urban and rural consumers with a connected load of less than 10 kW.
- iii. This energy requirement for these consumers must be met primarily via low cost power procured by the distribution company.
- iv. In case of shortages or unmet demand, SERCs should, via a consultative process determine a protocol to equitably share shortages. This sharing mechanism should ensure that all non-agricultural feeders with a majority of small consumers have at least 20 hours of supply and all agricultural feeders with small consumers have at least 8 hours of supply.
- v. Provision of hours of supply as approved by the commission should be periodically monitored by the commission based on feeder level data.

**13. Cross subsidy support for BPL consumers:** As per Para 8.3, the National Tariff Policy continues to endorse support to BPL consumers via cross subsidy. However, the number of units of consumption to receive support is left to SERCs. The extent of support which earlier was to be at least 50% of average cost of supply is not specified. In order to promote well-being, productive activities and capacities of poor households it is important to ensure that a minimum consumption of electricity will be supported. As the tariff policy can function as a set of guidelines, the document should state guidelines to assist commissions in determining minimum consumption, and determining level of cross-subsidy support.

- a. **Determining Minimum Consumption:** With respect to a normative quantum for minimum consumption norm, a modest appliance mix of 2 bulbs of 40W each, 1 fan of 50 W and 1 Television of 60W used for 5 hours a day works out to 30 units per month. Below this threshold of consumption it is difficult to envisage the benefits of electrification translating to increased well-being. In most states, the real average consumption is often less than the normative of 30 units due to lack of reliable power supply. This will change with the Government's commitment to providing 24\*7 Power For All. As for the period for reference for a consumption norm is concerned, a monthly consumption norm does not account for variance in consumption and often BPL consumers are pushed out of support for exceeding the limit in one particular month. Instead, an annual limit is easy to implement and provides necessary flexibility to beneficiaries. The National Tariff Policy should state a minimum consumption of 360 units per year for BPL households. SERCs can determine minimum consumption levels above this normative but given efficiency and economy considerations, but the same should not exceed 1200 units per year.
- b. **Determining Level of Cross Subsidy Support:** Support for BPL and agricultural consumers can be provided via setting tariffs at 50% of Average Cost of Supply or by allocation of low cost power.

**14. Creation of a separate category for small consumers:** Those LT consumers (domestic, commercial, industrial) whose consumption is low are likely to be poor and are subject to harassment, corruption and high tariffs as they are categorised based on the type of use. The tariff policy can suggest principles for tariff design to protect such consumers. One provision could be such that tariffs for all LT Domestic, Commercial and Industrial consumers with a connected load of less than 10 kW should be uniform for up to 300 units of consumption. These 300 units can be subject to telescopic tariffs (say, with 3-4 slabs). However, the slabs as well as tariffs should be uniform across categories. This would ensure certain level of intra-category cross subsidisation and provide price signals for efficient use of power. For consumption above 300 units, the slabs and tariffs can vary across categories. This would enable consumers to change connections or obtain separate connections based on type of use without facing any tariff shock. Such a system would imply continuation of current tariff categories and would ensure that information on billing, sales and revenue collection is available based on types of use for all consumers. Moreover the policy should also mention that Section 126 of the Electricity Act would not be applicable if actual use by eligible consumers is mixed use (domestic, industrial or commercial). This will be significant step forward in commitment to reduce administrative discretion and simplify tariff structure.

**15. Time differentiated tariffs, not for all consumers:** Para 8.4 includes a provision to ensure time differentiated tariffs for all consumers in a time bound phased manner. Given the fact that most states continue to have at least 20% to 40% of their LT sales unmetered such a plan will be infeasible. In order to better manage load, all consumers, except agricultural consumers who continue to be unmetered, with a connected load of above 10 kW can be subject to time differentiated tariffs. If consumers below 10 kW are not subject to this provision it would enable protecting interests of consumers with low consumption as suggested above

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