BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF:

Petition filed by APDISCOMs for determination of true-up for Retail Supply Business for FY15, FY17 and FY18 in accordance with the APERC (Terms & Conditions for determination of tariff for Wheeling and Retail Sale of Electricity) Regulation No. 4 of 2005 and amendments issued from time to time.

Submissions of Prayas (Energy Group), Pune

The Commission vide its public notices dated 27th of July 2019 sought comments on the petitions filed by APEPDCL and APSPDCL regarding true-up for the years FY15, FY17 and FY18.

For these years, the DISCOMs have petitioned for an additional Rs. 15,262 crores as true-up for the retail supply business. This amounts to a 71% increase from the total cumulative ARR approved by the Commission in these three years. 28% of this is amount is due to carrying cost claimed by the DISCOMs. Passthrough of such costs, along with carrying costs will impact the consumers of the DISCOM significantly. Despite the implications of such an increase, detailed information on performance and the uncontrollable factors which led to such an increase have not been provided and there is hardly any information in the petitions to substantiate the DISCOMs' claims. The Commission should ensure the true-up for these three years take place with detailed public scrutiny of information and should also ensure that the true-up for FY19 and as well as for the entire 3rd Control Period is initiated soon. In this context, Prayas (Energy Group)'s comments and suggestions in this matter is as follows:

1 Importance of true-up process

The true-up process, based on regulatory scrutiny and detailed prudence check of actual performance and audited accounts of the DISCOMs is a crucial process in the regulated costplus framework for tariff determination. As this process is based on actual performance rather than estimates or projections, it provides for detailed assessment of costs incurred, and the performance of the DISCOM compared to efficiency trajectories and norms prescribed by the Commission. In a sense, a detailed true-up process with gain and loss sharing mechanism is essential to the implementation of the Multi-Year Tariff Approach. The process is also crucial to assess the extent of losses and revenue gaps along with carrying cost which is to be recovered from consumers.

Recognizing this, APTEL vide its suo-motu judgement in O.P No.1 of 2011, directed State Commissions to ensure that the true-up of past expenses is conducted every year as per the time schedule specified in the regulations. Compliance to this direction was reiterated in the Financial Restructuring Plan of 2012 (which Andhra Pradesh DISCOMs and State Government are signatories of) as one of the conditions for participation in the scheme. Regular true-ups were also recommended in the 2011 report of the High Level Panel on Financial Position of Distribution Utilities headed by Shri. V.K Shunglu. Additionally the MoU under UDAY, which AP DISCOMs are a signatory to also clearly specifies a commitment to creation and submission on annual accounts.

As the true-up process provides for performance accountability of the DISCOMs it is as crucial as the tariff determination process. The current petitions for FY15, FY17 and FY18 are being filed in FY20. Thus, they are delayed significantly and also do not provide any details going against the mandate and commitment of ensuring regular true-ups. The reasons provided for the delays include

- Payment of fixed charges due to AP Reorganization Act
- Take-over of FRP Bonds and Working capital loans under UDAY scheme in September 2015
- Regulation of power between AP and TS in 2011

The DISCOMs have not provided any details to clarify how these three events have contributed to such significant delays in the filing of true-ups. Further, the same reasons were not explicitly stated in a consistent fashion in earlier submissions before the Commission. Delay in filing true-ups is a practice that has occurred even before 2014 and should not be encouraged. With delay in filing of true-ups, the pending prudent costs would have to be recovered with the total claimed carrying cost of about Rs.4282 crores, which is an additional and wholly avoidable burden on consumers.

The DISCOMs could also have filed for an interim or provisional true-up to meet their working capital requirements and reduce future interest cost burden on consumers. As part of this petition and request for condonation of delay, the DISCOMs should also provide sufficient evidence on action taken by them to reduce the carrying cost burden due to this delay.

2 Compliance with regulations pertaining to true-ups

As fuel surcharge levy was not being implemented, APERC Tariff Regulations, 2005 were amended in 2014 to specify power purchase true-up annually in order to enable timely recovery of uncontrollable, fait accompli costs. In this context, submitting the power procurement costs with up to a three to four year delay defeats the purpose of timely annual recovery of costs.

DISCOMs have limited their true-up filings so as to focus on variation in power purchase expenses alone. Though this was the case in the true-up for FY16 as well, it is not in compliance with other provisions of the APERC Tariff Regulations. 2005 as detailed below:

- Regulation 6.4 of the principal regulations say that the ARR for the retail supply business should contain power procurement costs as well as all other items mentioned for the distribution business. In extension a true-up for the ARR for that year should contain all these details as well.
- Regulation 10.5 and 10.6 of the principal regulations read with Regulation 19 stipulates that pass-through and sharing on gains and losses should take place. This necessarily should be based on actuals.

It is also crucial that performance is evaluated in a comprehensive manner as the wires and retail businesses though notionally separated are intrinsically linked. Provision of information on all cost and performance heads can be provided similar to RSF formats filed as part of the ARR filings at the time of tariff determination. Such information can help with a detailed understanding of the operations and performance of the DISCOMs and also to understand crucial linkages, trends. For example, reduction in power purchase expenses can also take place if there is poor quality of supply and thus a better understanding of actual power procurement, investment in networks, operation and maintenance expenses, supply and service quality and sales is important. Without comprehensive information it would be challenging to ensure accountability especially with potential impact on consumer tariffs.

To enable detailed scrutiny, the Commission can also call for more information on actual basis under Regulation 21 or 22 of the principal tariff regulations.

3 Crucial data and analysis gaps in current petition

Even when limited to retail supply, there is very limited information in the true-up petitions submitted by the DISCOM and they do not help in assessment and reconciliation of costs, revenues identified and approved by the Commission in various tariff determination processes .These areas with limited information include:

Power procurement costs: Along with the actuals on station-wise break-up of fixed and variable costs, there is a need to provide information on:

- Station-wise availability and dispatch and costs due to incentives, penalties, taxes and other expenses similar to information provided in Form 1.4 of the RSF provided in tariff filings.
- Data on actual availability and dispatch can also help the Commission assess the extent of backing down and the fixed cost impacts due to the same.
- Data on month-wise actual availability and dispatch, similar to information provided in Form 4.2 RSF provided in tariff filings should also be provided for each year to assess the seasonal nature of generation availability and surplus power.
- Data on DISCOM to DISCOM purchase, if any, would also be crucial in gauging revenue impacts.
- In addition, as the Commission had decided to reconcile income earned by sale of RECs, in any, during true-ups, this information should also be provided by the DISCOMs

Sale of surplus power: To ensure proper assessment that every effort was taken to ensure sale of surplus, the energy sold and revenue obtained for sale of surplus from each source (power exchanges, DEEP portal, bilateral contracts with trading licensees or companies etc.,) needs to be specified. Details on sale of surplus through RTC, peak and off-peak contracts on a monthly basis should also be reported to assess seasonal variations.

Assessment of agricultural sales: Given the fact that significant agricultural consumption is estimated and not measured, detailed scrutiny of actual agricultural sales is crucial as it impacts subsidy payments, revenue from sales, power procurement planning and estimation of T&D, AT&C losses. As part of the true-up filings, DISCOMs should submit division-wise details on number of agricultural consumers, connected load, sales and revenue recovery. Such disaggregated information based on actuals would help ensure efficacy of estimation methodology for agricultural demand.

Assessment of T&D loss: Energy accounting data should also be provided in a disaggregated fashion during true-ups to ensure detailed scrutiny. Even under UDAY, AT&C loss targets are specified on a division-wise basis. Therefore, in order to facilitate proper assessment, division-wise details on category-wise sales, number of consumers and losses should be submitted by the DISCOMs.

Assessment of impact of domestic tariff design changes: In the tariff determination process of FY17, it was stated that the impact of introducing Group A, Group B and Group C domestic category tariffs would be evaluated during the true-up process. Thus, slab-wise information on information of number of consumers, connected load, sales, revenue from fixed charges and revenue from variable charges should be provided in Format similar to Form 5 of the RSF filings. This should also include previous year data for all true-up years to assess if the change in tariff design has also shifted consumption patterns on an overall basis. The DISCOMs should also submit their assessment of the tariff design adopted as well as its efficacy using relevant data analysis.

Detailed assessment of sales and revenue recovered: With the demand uncertainty before DISCOMs and variations between projected and actual sales on a category-wise basis, there is a need for detailed scrutiny of sales and revenue to inform future tariff design mechanisms and sales projections. In order to better assess this, DISCOMs should provide details on category-wise, slab-wise number of consumers, sales, connected load, revenue from fixed charge, energy charge, other charges, incentives, penalties, time of day tariffs similar to Form 5 of the RSF filings in the tariff determination process.

Extent and impact of sales migration: With availability of cost-competitive alternate options of supply many HT consumers have availed open access and captive options to reduce their dependency on the DISCOM. Further, many consumers are also availing rooftop solar options to reduce their consumption from the DISCOM. Along with trends in sales, it is crucial to capture extent of captive and open access sales as it has impacts of revenue recovery, future sales estimation and energy accounting. The data based on actuals on captive and open access should be provided in formats similar to Form 5c , Form 1.1, Form 1.2 and Form 1.3 of the RSF filings.

Assessment of DISCOM finances and performance without significant tariff increase: In the 3^{rd} Control Period, there was hardly any tariff increase for several categories. While such a measure ensures affordability of power for many consumers, it is also unsustainable if the average cost of supply of the DISCOMs continues to rise. While approving modest or negligible tariff increases during the tariff determination process, the Commission directed the DISCOMs to improve the performance efficiency, ensure sale of surplus power and DISCOMs also committed to meeting revenue gaps through subsidies. As part of the true-up if would be essential to review each cost head, reduction in cost of supply due to various steps taken by the DISCOMs and the need for revenue increase during true-ups along with carrying cost as efficiency improvements were lower than anticipated. It would also be necessary to estimate the consolidated revenue gap along with carrying costs. Such an assessment should also include fait accompli costs which are to be recovered from consumers based on APTEL judgments or ERC orders to provide comprehensive assessment on impact on pass through.

Submission of audited accounts: According to the petitions filed by the DISCOMs in this matter, the audited financial accounts have been prepared based on accrual basis whereas actual expenses incurred are higher than the audited costs. If this is the case, it is vital that the revised audited accounts based on actuals is submitted to the Commission as part of the true-up process. DISCOMs should also ensure that it is these accounts that are submitted for statutory filings and for scrutiny before the CAG and for assessment by PFC, CEA and other central sector agencies.

It should be clarified that even through past year information it reported as a practice as part of RSF filings for tariff determination, it is not provided in a consistent fashion for all years. For example, detailed information is not available for both DISCOMs for the years, FY15 and FY18 from RSF filings. Further, by the DISCOMs own admissions those numbers, even though audited could be subject to variation.

4 True-up and comprehensive review of 3rd Control Period

The Commission issued order for the determination of ARR and wheeling charges for the distribution Business for the 4th control period for FY2019-20 to FY2023-24 on the 15th of April 2019. However, Regulation 22.1 of the Tariff Regulations state that:

'Towards the end of the Control Period, the Commission will seek to review if the implementation of the principles laid down in this Regulation has achieved its intended objectives. While doing so, the Commission will take into account, among other things, the industry structure, sector requirements, consumer and other stakeholder expectations and Distribution Licensee requirements at that point in time. Depending on the requirements of the sector and to meet the objects of the Act, the Commission may revise the principles for the subsequent Control Period(s).'

It is urged that the Commission undertake such a comprehensive review of the entire 3rd Control Period in the year FY20 itself. This would be similar to the process initiated for the true-up of the 2nd Control Period. This review should be based on a comprehensive assessment of the retail and distribution business and should take into account major sector trends and emerging challenges. Such a review will help provide a much needed complete assessment of performance and costs. Analysis based on RATE tool developed by Prayas and submitted to the Commission illustrated significant impacts on DISCOM finances due to emerging trends such as open access, increased RE etc. It is crucial to assess these trends to take corrective and timely action. Based on a public, comprehensive assessment of actual performance, the Commission should also consider amending the tariff regulations so that it is an enabling framework for DISCOM accountability and tariff setting based on current realities.

5 Summary of suggestions by PEG

Given the importance of true-up process in ensuring DISCOM accountability, providing an assessment of past performance and current financial status, it is suggested that:

- The Commission directs the DISCOMs to submit more detailed information based on actuals for power procurement, revenue sales, losses and distribution costs in a disaggregated manner for the years being trued –up.
- The additional data submitted by the DISCOMs should be uploaded on the Commissions website and a second public hearing should be conducted in the matter to ensure informed participation by consumers.
- In case of delay in submission, the carrying cost for the additional amounts claimed by the Commission should be disallowed.
- The Commission should also initiate a detailed process to review the performance of the DISCOMs as well as the state-owned generation and transmission companies under the 3rd Control Period to inform amendment of the tariff regulations and implementation of the MYT framework in the 4th Control Period.

Unless detailed scrutiny during true-ups is conducted in a comprehensive manner, the very objectives of the Multi-Year Tariff framework (to ensure cost efficiency and certainty, equitable sharing of risk between utilities and consumers and better planning processes) will not be achieved. This would be a lost opportunity for concerted action in a sector under crisis.

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