

● PRAYAS

Initiatives in Health, Energy,
Learning and Parenthood



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August 14, 2013

To,
The Secretary,
Central Electricity Regulatory Commission
3 rd & 4 th Floor, Chanderlok Building,
36 Janpath, New Delhi- 110001

Subject: Prayas submission related to the Approach Paper for laying down the terms and conditions of tariff for the control period from 1.4.2014 to 31.3.2019

Ref: Public Notice No. 20/2013/CERC/Vol-I/Tariff Reg. dated 25th June, 2013 and subsequent notice No. 20/2013/CERC/Fin(Vol-I)/Tariff Reg. Date: 24th July, 2013

Dear Sir,

This submission is regarding the matter mentioned above. It is welcome initiative on part of the commission to facilitate fresh thinking on this critical issue of tariff determination, bearing in mind the learning from previous MYT implementation, protection of consumer interests and in light of the current challenges faced by the sector. The list of issues articulated in the approach paper are of significance and must be discussed before arriving at any consensus with respect to the tariff regulations for the next control period. However, we feel that there is need for a more detailed background analysis and information in order to take this process forward. In this regard, please see our comments below.

1. **More detailed and better informed approach paper:** The enumeration of issues faced in the tariff setting process and its possible solutions posed for public consultation could be a useful exercise, if all the possible outcomes are also analysed in form of scenarios and quantified in terms of their impact on tariff and then presented for further debate and discussion. However, the present approach paper limits itself to only raising questions without quantifying impacts of each possible alternative on tariff. Also it is important to highlight that there is no quantitative review of the past implementation, which in fact should be the starting point for such a process. The lack of information in terms of possible impacts on tariff, performance and past experience becomes even more significant because of asymmetries in information and capacities among various stakeholders. We feel that an approach paper meant to serve as background material for a public process as significant as tariff setting should be more detailed and present information after considering capacities of all stakeholders, including general public.
2. **Address the disparity in interests and capacity of different stakeholders:** Regulated utilities not only have information on financial, technical and operational indicators of their business but they also have enough at stake to interest them in investing time and resources to undertake detailed analysis and provide possible alternatives and suggestions for each of the question posed by the commission. However, the other stakeholders i.e. the common consumers will neither have information nor the capacity for sound analysis to evaluate possible alternatives and their impact. Further, Distribution Companies who are

the one of the main stakeholders representing interests of common consumers, may simply view this exercise as another pass-through and thus, may not engage in this process with a view to minimise tariff impact on its consumers. Therefore, it becomes the responsibility of the commission to ensure that interests of this largest stakeholder, i.e. the common consumer, are protected. To ensure this happens, the commission must facilitate more transparent and informed discussion by clearly presenting each alternative in the form of scenarios with their impacts on tariff and efficiency.

3. **Issues that the approach paper should address:** Considering the above aspects, and in order to enable a more meaningful and informed participation on this critical issue of tariff determination, the commission should publish a subsequent approach paper which, among other things should also deal with the following issues:
 - a. ***Detailed review of past MYT implementation:*** The main purpose behind initiating MYT framework was to encourage good planning practices and ensure efficiency improvements so as to have better control on costs. Hence, before getting to any debate or discussions regarding what needs to be modified it is important to first understand what the past MYT implementation has achieved and what it could not, in the context of this broader objective. For this purpose, the approach paper should first present a detail review of past control periods along with quantitative analysis of various performance parameters, detailing how the regulations impacted financial and operational performance as well as tariffs in that period. Once such data and analysis is available, it will become easier to focus on the areas of strength and improvement.
 - b. ***Analysis of Best Practices across different countries:*** An analysis of practices from other countries in order to tackle with some of the issues touched upon in this approach paper would again be necessary. Especially in the context of move towards, RPI-x kind of regulatory regime, it will be important to understand various aspects of data capturing, monitoring and forecasting techniques used for this purpose. It is very important to highlight best practices with respect to transparency and better reporting and monitoring of data. It will be helpful if the commission could share any international experience or evidence where MYT regime has led to significant efficiency and cost improvements from consumer point of view. Further, attention should also be given to how regulators across different countries evaluate prudence of major capital expenditure or planning processes and so on. Detailing the pros and cons of each such approach and accounting their experience would be helpful in evaluating how they would suit Indian needs, if at all.
 - c. ***Assessment of possible options and their impact on tariff:*** Subsequent to providing an overview of the achievements and shortfalls of previous MYT implementation the approach paper must also present possible options and its impact on tariff. Instead of simply listing all possible questions, the commission must instead develop scenarios by clubbing similar alternatives and presenting a comparative analysis detailing how tariff will be determined or affected by each set of assumptions/changes. This would help stakeholders to understand the significance of choosing any particular scenario or option.
4. **Other suggestions:** Apart from the issues raised in the approach paper, we would like to put forth few of more issues which need to be addressed in the tariff design process for the next control period. These issues are listed below:

- a. **Web-based monthly reporting of fuel availability and performance parameters:** Fuel related costs are the biggest factor in generation tariff and recently many performance issues have been reported with respect to coal availability and its quality. Also increasing imports add to cost of generation. In fact the approach paper lists an entire section 6.1 dedicated to the issue of 'Availability of Fuel'. Therefore, in light of the present issues as well as importance of fuel cost as a major factor influencing generation tariff, there is a need to facilitate more informed public understanding in this regard for which the commission will have to think of ways to get the relevant information and status on an ongoing basis. One simple and inexpensive way of doing this would be to mandate all generating companies to publish unit-wise information regarding source wise (i.e. CIL subsidiary, captive mine, e-auction and/or imports) quantity and cost (separating out transportation cost) of coal procured on monthly basis. Similarly, all generating companies regulated by CERC must be directed to share on their website monthly unit-wise performance in terms of net and gross generation, auxiliary fuel consumption, heat rate, load factor, availability, etc. along with fixed and variable costs for that period. This information can also help in comparing operational performance and variable cost of different generating stations across regions and time periods.
- b. **Benchmarking:** In case of many cost heads such as capital cost per Megawatt, fixed costs of generation units, operation and maintenance related expenses and so on, the commission should consider introducing benchmarking techniques to decide a maximum ceiling level. Utilities should be incentivized to perform lower than the ceiling and penalized if they cross the same. The benchmarks can be developed by a comparative analysis of performance over time across various plants/ stations after factoring for the differences on account of technology, vintage, fuel source, etc. Competitively discovered tariff can also be one of the factors to be considered for such comparison.
- c. **Return on Equity:** One of the key issues in case of power utilities, as observed from various state regulatory commissions' tariff regulations, is that the equity is never reduced in the books of the utility. As per the present regulations of many state commissions, the equity put in by the utility does not get reduced despite coming close to the end of the life of the asset. CERC must ensure that such anomaly does not exist in its tariff regulations.
- d. **Fixed assets:** The Electricity Act 2003 does not discuss about the ownership of assets post their useful economic life even though they are created under the regulatory expenses. We believe the same should be transferred to consumers at a very nominal value as they have paid for the assets throughout the useful life. The commission should explicitly deal with this issue and clarify the same through the regulations.
- e. **Third Party Verification:** Significant part of the tariff (Return on equity, interest on long term loan and depreciation) is related to capital expenditure. Large scale capex is being undertaken for many stations for modernization and renovation purposes and other such reasons. However, most commissions in India do not undertake any post-facto cost-benefit analysis or actual on-site verification of capex. The new regulations should have provision for third party audit and verification of capex schemes to facilitate such post facto analysis.

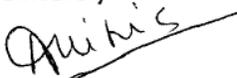
- f. **Take help from CAG in audit processes and financial analysis:** Electricity regulatory commissions have teeth, but often lack arms when it comes to analysis of financial statements, as they usually have limited expertise in this area. The CAG on the other hand has strong arms and years of experience in looking at utility businesses and dedicated manpower to undertake such work. Therefore, in addition to taking help and assistance from private firms and / or consultants, the CAG can become an additional consultant for the regulatory commissions. The section 20 of the CAG act specifies that it can be requested to look into the books of accounts of even a corporate entity if it is in the public interest. Hence we feel that commission should amend its regulations so as to enable seeking help of external organizations such as CAG.
- g. **Need for the commission to have a broader perspective:** The commission should not only look at expenses and capital expenditure of regulatory businesses but also undertake financial analysis of regulatory business by studying the various financial statements such as balance sheet, profit and loss and cash flow. Apart from regulatory business, the commission should take the broader perspective and also look at the combined regulated and unregulated businesses, wherever applicable. This becomes more relevant in context of many privately owned corporate entities engaging in multiple businesses also entering into power generation and transmission which is a regulated business. In order to ensure proper segregation between regulated and unregulated aspects of any business, the regulator should look at and/or seek information from various other government agencies (e.g. CAG, SEBI, etc.) filing made by these companies under companies act, Income act and ensure that regulatory business is run in a prudent and efficient manner.

Considering the above points, we request the commission to publish a subsequent discussion paper which presents more detailed analysis considering the various issues listed here along with quantitative estimates of tariff impact of each possible alternative. Given the critical nature of these regulations and its impact on discom tariff and hence their finances, it is very important to invest time and effort in terms of enabling a complete and transparent understanding about the tariff impacts of any proposed amendments as well as facilitate better understanding of issues, if any with the present MYT implementation and areas of improvement.

Once again we request the Commission to take this submission on record and allow us to make further submissions based on subsequent proceedings in this matter, if any.

Thanking you

Sincerely



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