

Before the Tamil Nadu Electricity Regulatory Commission
In the matter of:
Draft Amendment to the Terms and Conditions for determination of Tariff Regulations

04 April 2020

Submissions of Prayas (Energy Group), Pune

The Tamil Nadu Electricity Regulatory Commission (TNERC), vide public notice TNERC/TR/5/2¹ dated 5th March 2020, invited comments on the draft amendment to Regulation 5 of the Tamil Nadu Electricity Regulatory Commission (Terms and Conditions for determination of Tariff Regulations) 2005. As per this proposed amendment, the State Load Despatch Centre (SLDC) is required to file the Aggregate Revenue Requirement and petition for determination of SLDC charges by 30 November each year. Tariff regulations are essential toward ensuring accountability and efficacy in the functioning of the state's power sector, and the proposed amendment is a welcome step toward streamlining the independent operation of the SLDC. However, given the importance of tariff regulations, other amendments to Tamil Nadu's tariff regulations are essential.

- Lack of clarity in tariff determination framework

Currently, there seems to be two parallel frameworks of tariff determination effective in Tamil Nadu, i.e., the Tariff Regulations 2005 and Multi Year Tariff (MYT) Regulations 2009. Both of these regulations have undergone multiple amendments since and there is no clear mention of either of these regulations being repealed. It is unclear as to which is held effective with regard to the tariff determination framework currently being implemented. This lack of legal clarity could lead to increased litigation. Especially because both the frameworks have inconsistent provisions. For instance, as per the Tariff Regulations 2005² (compiled as amended up to 31st December 2010), "*the Commission may implement multi year tariff for the Transmission and Distribution licensees for a period to be notified*". However, the MYT Regulations 2009³ (as amended on 28 November 2012) states that "*The control period under the MYT framework shall be for a duration of 3 years*". To avoid such ambiguity, there is a need to undertake a consolidated revision of tariff regulations such that the tariff determination process is clearly detailed and the process is reflective of the changes in the state and the sector. Given the significance and impact of the regulation, the consolidated amendment should be passed only after due public consultation.

A few suggestions from the Prayas (Energy Group) towards comprehensive tariff regulations for Tamil Nadu are listed below:

- Five year control period for MYT process

As mentioned earlier, the control period under the MYT framework is three years. TNERC could extend this to a five year period to ensure medium term planning and accountability of performance parameters. The MYT process also helps in ensuring tariff certainty and reducing risks. The Commission

¹ <http://www.tnerc.gov.in/regulation/draft%20regulations/2020/Tariff%20regulation-Amdt.pdf>

² <http://www.tnerc.gov.in/regulation/Tariff/2011/TR-5-2-9%20dt%2018-03-2011-Consolidated%20upto%20-%2031-12-2010.pdf>

³ <http://www.tnerc.gov.in/regulation/Tariff/2012/MYT-18-3-English.pdf>

should continue to retain gain and loss sharing mechanism as part of the MYT process to incentivise improvements in efficiency.

- **Specifications of performance parameters**

Performance trajectories and norms are crucial towards ensuring efficiency and monitoring performance parameters such as availability, plant load factor, station heat rate, transit loss, distribution loss, auxiliary consumption, operation and maintenance, etc. Currently, the tariff regulations term some of these parameters as normative, but it does not define the specific norm or the performance trajectory expected to be met. Given their significance and to ensure efficient operation, the tariff regulations itself should define the norm to be met by the performance parameters. For example, the target % distribution loss and the station heat rate (in kCal/kWh) for each year of the control period can be stated in the regulations.

- **Revisions based on changes in the sector**

The Central Electricity Regulatory Commission (CERC) amended⁴ its MYT regulations in FY19, and as part of its tariff regulations, changed its capacity charge tariff design to ensure availability of power in peak periods. It has also instated steps to address seasonal variation due to renewable energy (RE). Undertaking steps along these lines would be beneficial in a state like Tamil Nadu, given the significant role of RE in the state's energy mix. CERC's regulations also provide equity based incentives for meeting performance parameters. TNERC could adopt such measures for generation and distribution to incentivise increased efficiency.

Given the fast changing nature of the power sector, the Commission should require the distribution company (DISCOM) to provide base and peak demand estimation and a corresponding power procurement and capacity addition plan, that includes RE. Such details should be provided for the next ten years and this data should be revised every control period, on a rolling basis, to reflect changes in the sector. This would facilitate sound planning in a fast changing sector, which in turn would inhibit creation of surplus capacity or high cost short term power procurement.

- **Specify principles and mechanisms for sales migration charges**

The TNERC should also outline the principle and mechanism for the determination of additional surcharge and wheeling charge for open access consumers. The current tariff regulations only mention that such charges must be levied. Given the growing role of open access in the power sector, having clarity and certainty regarding the framework for determination of these charges would also aid in better planning for both the utility and the consumer.

- **Specify data formats**

Toward ensuring simplicity, effectiveness, and transparency in reporting by the state distribution company, TNERC's tariff regulations should specify data formats in which the licensee must report data pertaining to sales and performance. Some crucial formats have been outlined in our report 'Bricks without Clay'⁵, and can be adapted by TNERC. Such comprehensive and regular data records will help various stakeholders gain crucial insights on issues affecting the sector and also aid in policy making.

⁴ <http://www.cercind.gov.in/2019/regulation/Tariff%20Regulations-2019.pdf>

⁵ <http://www.prayasypune.org/peg/publications/item/372-bricks-without-clay-crucial-data-formats-required-for-effective-tariff-processes.html>

In conclusion, the need of the hour is a consolidated MYT framework, that is easy to follow and avoids legal ambiguity. Towards this end, TNERC could follow the example of states like Maharashtra, Rajasthan, Gujarat, and repeal previous amendments and instead formulate a comprehensive tariff regulation policy that reflects the changing sector and state practises.

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