

DDIT  
for n.a. file  
The Secretary  
Telangana State Electricity Regulatory Commission  
11-4-660, 5<sup>th</sup> floor  
Singareni Bhavan, Red Hills  
Hyderabad - 500 004

For perusal	16/3
Secretary	
Member/T	17/3/16
Member/F	17/3/16
Chairman	21/3
March 14, 2016	

Respected Sir,

Sub : Request for further information relating to ARR and tariff revision proposals for the year 2016-17 and true up filings of TSSPDCL and TSNPDCL for the first and second control periods and extension of time for submission of suggestions and objections on the same and for replies to be given by the Discoms, as well as holding public hearings and submission of preliminary objections and suggestions.

With reference to the public notice dated 10.3.2016, seeking suggestions and objections on the subject proposals of the TS Discoms, I am bringing the following preliminary points to the notice of the Hon'ble Commission for necessary action:

1. The TS Discoms have submitted their subject proposals on the 8<sup>th</sup> March, 2016, to the Hon'ble Commission, instead of submitting the same by the 30<sup>th</sup> November, 2015, i.e., after a delay of three months and eight days. The Discoms sought and the Commission gave extension of time repeatedly, facilitating this unwarranted delay, as reported in the media from time to time. In response to our objections on the delay in filing ARR and tariff proposals by the Discoms for the year 2015-16, the Hon'ble Commission observed: "the delay in filings caused difficulties not only to objectors and consumers but also to the Commission. The Licensees shall make every effort to file ARR & Tariff Proposals 120 days before the effective date of Tariffs as per Sec.64 of the Electricity Act, 2003" (para 4.2.3 © of the Commission's tariff order for the year 2015-16). That was the observation made by the Commission on filing ARR and tariff revision proposals on 7<sup>th</sup> February, 2015 by the Discoms. Furthermore, the Commission had directed the Discoms that "the Discoms are directed to submit the ARR and Tariff proposals in time i.e. by 30<sup>th</sup> November of current year in order to make the Tariff Order effective from 1<sup>st</sup> April of next year" (Directive 7.9 at page 237 of tariff order for 2015-16). In their subject filings, the Discoms have explained the reasons for the delay in submitting the same for the year 2016-17 as - analysing the impact of Ujwal Discom Assurance Yojana (UDAY), decision regarding scheduling 9 hours of agricultural power supply during day time and gathering and analysing the data of upcoming lift irrigation schemes that are going to be energized during 2016-17 in Telangana. The second and third issues should have been analysed well in advance, since they had been under consideration much earlier. Since UDAY scheme was announced by the Ministry of Power, Government of India, on 23<sup>rd</sup> November, 2015, analysing its impact does not require more than a few days. Even if we accept for the sake of argument, without conceding the point, that these issues were really the reasons for delay in submitting ARR and tariff revision proposals by the Discoms for the year 2016-17, it is

MEMBER (T) PESHU  
No : 213  
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MEMBER (F) PESHU  
No : 223  
DATE : 17/3/16



CHAIRMAN PESHU  
No : 226  
DATE : 21/3/16



**indicative of lack of promptness and timely decisions on the part of the Discoms and the State Government in finalising the same in a reasonable time.**

2. The Discoms have informed that “as Government of Telangana (GoTS) has conveyed its intention of joining the UDAY scheme, the licensee is not claiming the true-up amount for 1<sup>st</sup> and 2<sup>nd</sup> control period and revenue gap for FY 2014-15 and FY 2015-16 in the current filing.” They have further prayed the Commission not to pass on to the consumers, the aggregate losses of the Discoms of the 1<sup>st</sup> and 2<sup>nd</sup> control periods (FY 2006-07 to FY 2013-14) and revenue gap of the years 2014-15 and 2015-16 in the ARR of FY 2016-17, in view of participation in UDAY scheme. At the same time, the Discoms have submitted that “a clear picture on the reduction in losses to the licensee by virtue of take-over of loans by GoTS would emerge once the UDAY scheme details are finalized.” In other words, even after a delay of more three months in submitting their ARR and tariff revision proposals, the Discoms have no “clear picture” on the reduction in “losses” to them by virtue of implementation of UDAY scheme by the State Government. In view of this position, it is obvious that the real reasons for delaying repeatedly the submission of ARR and tariff revision proposals are other than what the Discoms have shown. In this connection, I would like to remind the Hon’ble Commission that AP Discoms and AP Transco had already submitted their true up claims for the second control period early in 2015 itself and that APERC had held public hearings on the same giving extension of time to the interested public repeatedly to file their objections and participating in the public hearings on the same and issued its orders well before the AP Discoms had to submit their ARR and tariff revision proposals for the year 2016-17 so that the impact of true up claims also can be factored in the ARR for 2016-17. Even public hearings on the ARR and tariff revision proposals of AP Discoms are going to be concluded on the 14<sup>th</sup> of this month and in all likelihood APERC would issue its tariff order for 2016-17 in time so that new tariffs can come into effect from the 1<sup>st</sup> April, 2016. As by-elections to some seats of Lok Sabha and Legislative Assembly and elections to GHMC and some other Municipal Corporations in Telangana were scheduled earlier, it was widely reported and felt that the TS Discoms were delaying submission of true up claims, ARR and tariff revision proposals to the Hon’ble Commission at the behest of the State Government to serve political expediency of the party-in-power in the State so as to avoid likely adverse impact of such proposals on the electoral prospects of the party-in-power. That the Discoms have submitted their ARR and tariff proposals after completion of these elections lends added credence to the widely shared perception that the delay in submission is to serve political expediency of the party-in-power.
3. The true up claims for the 1<sup>st</sup> and 2<sup>nd</sup> control periods should have been submitted by the TS Discoms during 2015 itself, as AP Discoms had done, in view of implementation of financial restructuring plan for the Discoms in the Telangana State also in the past. TSERC also has been found wanting in bringing round the Discoms to comply with its directives, if any, for submitting the true up claims accordingly. Since the impact of true up claims of TS Transco for the second control period also will be felt on the ARR of TS Discoms, the Commission should



have directed the TS Transco to submit the same in time. TS Transco cannot shirk its responsibility of submitting true up claims for the second control period, because the same can be trued up or trued down, i.e., if permissible revenue gap is there, it is to be collected from the consumers, or if revenue surplus is there, it has to be shared with the consumers, as decided by the Commission after holding public hearings. Contrary to its earlier directive to the TS Discoms to submit their ARR and tariff revision proposals for 2016-17 in time, the Hon'ble Commission has repeatedly conceded their requests for extension of time for the same by more than three months. These inactions and actions of the Hon'ble Commission reflect on its functioning and exercising its legitimate authority as an independent and quasi judicial body. Needless to say, the Commission should not only act independently and objectively in exercising its due authority and in its functioning but also appear to be so.

4. Regarding the true up claims of TS Discoms for the first and second control periods, they have made simple statistical submissions, without explaining reasons for and justifying variations in expenditures under different heads, as permitted by APERC and as revised by the Discoms. Even if the Discoms do not want true up of the "aggregate losses," their claims need to be examined by the Commission and the interested public, deficiencies and manipulations, if any, pointed out and necessary directions need to be given by the Commission so that the identified deficiencies and manipulations can be corrected and should not be repeated in future. Therefore, I request the Hon'ble Commission to direct the Discoms to submit their explanations for variations relating to true up claims and provide us a copy of the same.
5. I request the Hon'ble Commission to direct TS Transco also to submit its true up claims, with required data and explanations, for the first and second control periods and provide us a copy of the same and hold a public hearing on the same and issue its order and consider its impact on the ARR of the Discoms. In this connection, it is to be noted that APERC, in its order dated 7.11.2016 in O.P.No.13 of 2015 relating to true up claims of AP Transco for the second control period (2009-10 to 2013-14), had determined a revenue surplus of Rs.588.47 crore and directed it to refund Rs.271.34 crore to the two AP Discoms towards their share of 46.11%. Since the true up claims pertain to the period of pre-bifurcation of the undivided Andhra Pradesh, by implication, the obligation devolves to the TS Transco, as a part and parcel of post-bifurcation arrangement, to refund the remaining amount of Rs.317.13 crore to the two TS Discoms towards their share of 53.89 per cent. The Hon'ble TSERC can adopt the order of APERC on the true up claims of AP Transco and direct TS Transco to refund Rs.317.13 crore to the two TS Discoms or else the Commission has to hold public hearing on the true claims of the TS Transco for the second control period and issue its order. Needless to say, refund of such a huge amount would reduce the revenue requirement and revenue gap of TS Discoms for the year 2016-17.
6. During the public hearing on the PPA between the TS Discoms and Chattisgarh discom, in response to our request, it was submitted on behalf of the Discoms that



load forecast plan would be submitted to the Commission along with ARR and tariff revision proposals. But no load forecast plan was submitted by the Discoms. All that the Discoms have submitted is “resource plan till FY 2018-19 (for 3<sup>rd</sup> control period).” Since the Discoms have been entering into long-term PPAs with different suppliers of power for a period ranging from eight to 25 years, this resource plan for a three-year period ending March, 2019, by no stretch of imagination can be considered a long-term load forecast plan and it does not provide any justification for entering into long-term PPAs. Therefore, I once again request the Hon’ble Commission to direct the Discoms to submit long-term load forecast plan and provide us a copy of the same so that we can study the same, analyse its implications and make relevant suggestions on related issues as and when required.

7. In their ARR proposals, the Discoms have not provided any information relating to monthly provision of subsidy by the Government of Telangana, as agreed to by it, and whether any amount is due towards subsidy from the Government. What are the accumulated aggregate liabilities of the Discoms and how much amount has to be reimbursed by the State Government on account of additional power purchases made by the Discoms at its behest? I request the Hon’ble Commission to direct the Discoms to provide us these pieces of information.
8. While NPDCL has provided circle-wise data relating to distribution losses up to November, 2015, SPDCL has provided percentage of losses for the Discom as a whole. I request the Hon’ble Commission to direct SPDCL to provide me details of circle-wise AT&C or distribution losses.
9. While SPDCL has provided category-wise arrears, NPDCL has provided circle-wise arrears. I request the Hon’ble Commission to direct NPDCL to provide me details of category-wise arrears.
10. In the projections of power purchase cost for the year 2016-17, in their ARR filings, the Discoms have shown “cost due to backing down of long term sources” of 6926 mu as Rs.692.61 crore. I request the Hon’ble Commission to direct the Discoms to provide me details of which long-term sources are proposed to be directed to back down during 2016-17 and give the reasons for the same. Also, the Discoms have to clarify whether such backing down has taken place during 2015-16 and if so give details thereof and reasons for the same.
11. The Discoms have projected an additional revenue of Rs.724 crore due to sale of power of 1448 mu during 2016-17. At the same time, they have proposed to purchase 521 mu from the market at a cost of Rs.272 crore. When a quantum of 6926 mu is going to be backed down, and when the average cost of sale of surplus power is slightly more than the average cost of purchases from the market, where is the need for purchasing high cost power from different sources, whether short-term or long-term?



12. In response to the directive of the Hon'ble Commission to the Discoms to take prior approval to verify the transparent process of the procurement under RTC, the Discoms have informed that they have finalized power purchase of 2000 MW RTC power on firm basis for the period 29.5.2015 to 26.5.2016 under short term basis and that the details of methodology followed, along with documentary proof showing that the bidding process was completed by fair and transparent process, the date-wise, region-wise and source-wise purchase orders placed on the short term sources were submitted to the Hon'ble Commission vide letter dated 29<sup>th</sup> June, 2015. I request the Commission to direct the Discoms to provide me the details of the same.
13. The above-sought information is required to make constructive suggestions for improving the functioning and financial position of the Discoms, besides submitting objections and suggestions on their ARR and tariff revision proposals, as well as true up claims. If public hearings are to be meaningful and purposeful, the Hon'ble Commission ought to assert its independence and authority and exercise its due powers to direct the Discoms and Transco to provide relevant information sought by the interested public in this regard well in time.
14. In its advisory, through Lr.No.L-30/DD (LAW)/7, dated 09-02-2016, the Hon'ble Commission stated: "The Managements of all Power Utilities in the State of Telangana viz., TSGENCO/TSTRANSCO/TSSPDCL/TSNPDCL are hereby advised to issue necessary instructions to their employees that without prior approval no employee shall appear or enter into any correspondence relating to the Utilities business and represent before the Commission in any matter relating to their business, otherwise they will be violating A.P. Civil Services (Conduct) Rules, 1964." This is contrary to the spirit of the Law and the purpose for which Electricity Regulatory Commissions are set up, i.e., encouraging public participation in their regulatory processes. The purpose and functions of ERCs are clearly enunciated in the Electricity Act, 2003. Nowhere it is maintained that the purpose of setting up of ERCs is to see that power utilities of the Government impose restrictions on the rights of their employees as consumers and citizens of the country ensured by the Constitution of India. In giving the said advisory to the power utilities of the Telangana Government, the Hon'ble Commission has ignored the clear-cut difference between the obligations of individuals as employees or officers of the Government's utilities and their rights as consumers and citizens and exceeded its regulatory and jurisdictional limits. The employees are bound to discharge their duties they are entrusted with, irrespective of their individual views on the decisions or orders of the Governments or the utilities they are serving. Shirking such responsibilities would attract Civil Services (Conduct) Rules. Even then, during the course of agitations for achieving their demands, stoppage of work by the employees would not attract civil services conduct rules, as experience over the decades in independent India confirms emphatically. Extending the same rules to restrict their freedom of speech and rights as consumers and citizens of the country would be undemocratic. As a part and parcel of the working class, the employees of the power utilities of the Government have been participating in various agitations for achieving their demands, including demands of the civil society at large, and they



are expressing their individual and collective stand on various issues, including the policies, decisions, proposals and orders of the Governments and the utilities for which they have been working, through their unions, associations, etc. These are legitimate activities of workers, employees and officers and they do not require "prior approval" of the Governments or of the Managements of the utilities they have been working for. For example, when workers, employees and officers of the erstwhile APSEB agitated against the decision of the Government of the day to unbundle it, when they agitated for formation of separate Telangana State, when they appeared before APERC, and even TSERC, during the public hearings they conducted on various issues for more than one and a half decades or otherwise, the question of seeking "prior approval" for the same did not arise. Worked as civil servants in various capacities in their earlier stints, the Hon'ble Chairman and Hon'ble Members of TSERC must be aware of this democratic tradition and legitimate activities of workers, employees and officers of power utilities as a part and parcel of working class, as consumers and as citizens of the country. When workers, employees and officers of the power utilities of the Government appeared before ERCs during the public hearings or otherwise, they appeared in their capacity as individual consumers or citizens or as representatives of their unions, associations, organisations, etc., but not as representatives of the utilities they have been working for. Coming as the advisory of the Commission to the power utilities of the Government of Telangana after the widely publicised circular issued by the CMD of TSGenco-cum-CMD of TSTransco-cum-Special Chief Secretary, Sri D. Prabhakar Rao garu, to the employees of the power utilities on observance of code of civil services rules, it looks like a overenthusiastic follow-up step rather than as an independent initiative. As the Commission is fully aware, the diverse issues coming up for its consideration are very much complicated procedurally, legally, technically, commercially and financially, requiring detailed study and in-depth analysis based on material facts available on record and otherwise and knowledge acquired over the years to understand their real implications and make meaningful and purposeful submissions to protect larger consumer interest, as well as interests of the utilities. Among the public appearing before the ERCs, people who are making such contribution can literally be counted on finger tips, as experience has shown. It is in this context, that the contribution of employees, in their individual capacity or as representatives of their unions, associations, organisations, etc., though working in power utilities, during public hearings of the Commission or otherwise need to be appreciated and encouraged. The ERCs are expected to encourage such public participation even by playing a pro-active role to empower representatives of the civil society, including employees, who are willing to play such a role in the regulatory proceedings of the Commissions, with required knowledge, if necessary, by organising classes, etc., on various related issues. It is common knowledge that there are several occasions when orders of lower courts are being set aside by the higher courts, orders of SERCs and CERC are being set aside by the ATE, so also the orders of the latter being set aside by the Supreme Court in various cases. Therefore, no organisation need assume airs of omniscience and infallibility. The submissions, especially informed and rationally articulated, being made during public hearings or otherwise before ERCs by representatives of civil society,



including employees of power utilities, would assist the Commissions in taking a holistic and balanced view of the issues and arrive at proper conclusions to protect larger consumer interest as well as interests of the utilities. Such contributions from any quarters, including employees, should be appreciated and encouraged. Therefore, I earnestly request the Hon'ble Commission to re-examine, with a democratic spirit, its advisory issued to the power utilities of the Government of Telangana, withdraw it and not to insist on "prior approval" of the Managements of the power utilities for its employees and officers to participate in the public hearings of the Commission and to approach it even otherwise in their capacity as individual consumers or citizens or as representatives of their unions, associations, organisations, etc.

15. The Commission has given the last date for submission of suggestions and objections on the subject proposals of the Discoms as 30<sup>th</sup> March, 2016, i.e., a period of three weeks. It has also decided to hold first public hearing on SPDCL's proposals on the 6<sup>th</sup> April, 2016. In other words, a period of just one week is given, by implication, to the Discom to send its replies to the suggestions and objections from the interested public and to the latter to study the same and prepare for further submissions during the public hearing. With my experience of participating in the public hearings of regulatory commissions since the inception of the APERC in the undivided Andhra Pradesh, I can assert, without any fear of contradiction, that one week is absolutely inadequate for the Discoms to prepare and send their replies and for objectors to study the same, if at all they get the replies before public hearing, and prepare for making further submissions during the public hearings. When the Discoms have taken more than three months for analysing the impact of Ujwal Discom Assurance Yojana, decision regarding scheduling 9 hours of agricultural power supply during day time and gathering and analysing the data of upcoming lift irrigation schemes that are going to be energized during 2016-17 in Telangana, how unrealistic it would be to complete the process of pre-public hearing, i.e., seeking suggestions and objections from the interested public, Discoms sending their replies to the same and for the former to study the replies and make further submissions during public hearings, all in less than one month is anybody's guess, especially when additional issues of true up claims for the first and second control periods are also clubbed with ARR and tariff revision proposals. Therefore, I request the Hon'ble Commission to give adequate time by extending last date for submission of suggestions and objections, for replies to be sent by the Discoms to the same and for the objectors to study the replies and prepare for making further submissions during the public hearings. A short shrift should not be given to the process of public hearings, for the abnormal and unwarranted delay of more than three months in submitting their ARR and tariff revision proposals for 2016-17 caused by the Discoms and permitted by the Commission.
16. I request the Hon'ble Commission to consider the above submissions as a part and parcel of my overall submissions on the ARR and tariff revision proposals and true up claims of the TS Discoms and permit me to make further submissions in detail on

various related issues in writing before the due date and in person during the public hearings.

Looking forward to prompt compliance of the Hon'ble Commission and the Discoms,

Thanking you,

Yours sincerely,



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