



केन्द्रीय विद्युत विनियामक आयोग
CENTRAL ELECTRICITY REGULATORY COMMISSION



MOST IMMEDIATE-BY HAND ONLY

NO. 15/9(1)/2011/APTEL-TA/FOR/CERC

Dated: 17th January, 2013

The Registrar
Appellate Tribunal for Electricity
8th Floor, Core-4, SCOPE Complex
Lodhi Road
New Delhi 110003

SUBJECT: Compliance of the directions given by the Hon'ble Appellate Tribunal for Electricity

Sir,


Hon'ble APTEL vide order dated 3rd January, 2013 in O.P. No. 1 of 2011 directed the Secretary of Forum of Regulators to collect the data relating to 2012-13 and submit the report to the Registry at an early date. Hon'ble APTEL also directed Amicus Curiae Counsel to discuss the issues with the Secretary, FoR. Accordingly, the FoR Secretariat wrote letters to all the SERCs/ JERCs on 10th January, 2013 to furnish the pertinent information.

2. It is submitted that vide letters dated 19th November, 2012 and 20th December, 2012, the FoR Secretariat submitted the report for the year 2012-13 based on the information furnished by the SERCs and JERCs. Further, as per the latest direction of the Hon'ble APTEL, the information available with the FoR Secretariat has been compiled as per the format suggested by the learned Amicus Curiae Counsel. The same is enclosed as **Annexure-I**. Copies of the communications received from all the SERCs and JERCs in compliance to the direction of the Hon'ble APTEL are also enclosed as **Annexure-II**.

3. It is requested that this may please be brought to the notice of the Hon'ble APTEL.

Encl: As above (8 copies)

Yours faithfully,


(Rajiv Bansal)
Secretary, CERC/FoR

Copy to: Amicus Curiae Counsel (4 copies)

Annexure - I

Status of compliance of APTEL order OP No. 1 of 2011: For financial year 2012-13

[Status update regarding Regulatory Commissions of Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Gujarat, Himachal Pradesh, Haryana, Jammu & Kashmir, Jharkhand, Joint ERC (Goa & UTs), Joint ERC (Mizoram & Manipur), Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh, and West Bengal]

S. No.	Parameter	Name of the ERCs which have complied	Name of the ERCs which have not complied	Name of the ERCs that did not report as per the prescribed format
1.	Annual Performance review petition filed as per the requirements of the regulations	<ol style="list-style-type: none"> Andhra Pradesh Chhattisgarh (for CSPDCL) Bihar Delhi JERC (Goa & UTs) Karnataka Meghalaya Odisha Punjab Tamil Nadu Tripura Uttar Pradesh (for NPCL) 	<ol style="list-style-type: none"> Gujarat Himachal Pradesh Jammu & Kashmir (J&K) JERC (Manipur & Mizoram) Madhya Pradesh Rajasthan Uttar Pradesh (for DVVNL, MVVNL, PVVNL and PuVVNL) West Bengal (for WBSEDCL) 	<ol style="list-style-type: none"> Arunachal Pradesh Assam Haryana Jharkhand Kerala Maharashtra Nagaland Sikkim Uttarakhand¹
2	Annual Performance review order being issued as per the requirements of the regulations	<ol style="list-style-type: none"> Andhra Pradesh² Bihar Chhattisgarh (for CSPDCL) Karnataka Meghalaya Odisha Punjab Uttar Pradesh (for NPCL) 	<ol style="list-style-type: none"> Gujarat Himachal Pradesh JERC (M&M) J & K Madhya Pradesh Rajasthan Tripura Uttar Pradesh (for DVVNL, MVVNL, PVVNL and PuVVNL) West Bengal (for WBSEDCL) 	<ol style="list-style-type: none"> Arunachal Pradesh Assam Delhi Haryana Jharkhand JERC (Goa & UTs) Kerala Maharashtra Nagaland Sikkim Tamil Nadu Uttarakhand

3	ARR petitions to be filed as per the requirements of the regulations	<ol style="list-style-type: none"> 1. Andhra Pradesh² 2. Bihar 3. Chhattisgarh (for CSPDCL, JSPL) 4. Haryana 5. Karnataka 6. Madhya Pradesh 7. Meghalaya 8. Odisha 9. Punjab 10. Tamil Nadu 11. Tripura 12. Uttarakhand 13. Uttar Pradesh (NPCL) 	<ol style="list-style-type: none"> 1. Assam 2. Delhi 3. Gujarat 4. Himachal Pradesh 5. J & K 6. JERC (Goa & UTs) 7. JERC (M&M) 8. Kerala 9. Rajasthan 10. Uttar Pradesh (for DVVNL, MVVNL, PVVNL and PuVVNL) 11. West Bengal (WBSSEDCL) 	<ol style="list-style-type: none"> 1. Arunachal Pradesh 2. Jharkhand 3. Maharashtra 4. Nagaland 5. Sikkim
4	Issuance of tariff orders as per the requirements of the regulations	<ol style="list-style-type: none"> 1. Andhra Pradesh² 2. Bihar 3. Chhattisgarh (for CSPDCL, JSPL) 4. Haryana 5. Himachal Pradesh 6. Karnataka 7. Kerala 8. Madhya Pradesh 9. Meghalaya 10. Odisha 11. Tamil Nadu 12. Tripura 	<ol style="list-style-type: none"> 1. Assam³ 2. Delhi 3. Gujarat 4. J&K 5. JERC (Goa & UTs) 6. JERC (M&M) 7. Punjab 8. Uttarakhand 9. Uttar Pradesh 10. West Bengal 	<ol style="list-style-type: none"> 1. Arunachal Pradesh 2. Jharkhand 3. Maharashtra 4. Nagaland 5. Rajasthan 6. Sikkim¹⁵
5	Tariff applicability only till the end of the financial year	<ol style="list-style-type: none"> 1. Andhra Pradesh 2. Bihar 3. Chhattisgarh (for CSPDCL) 4. Haryana 5. Himachal Pradesh 6. J&K 7. JERC (Goa & UTs) 8. Madhya Pradesh 9. Meghalaya 10. Odisha 	<ol style="list-style-type: none"> 1. Delhi 2. Gujarat 3. JERC (M&M) 4. Karnataka 5. Rajasthan 6. Sikkim 7. Uttar Pradesh 8. West Bengal 	<ol style="list-style-type: none"> 1. Arunachal Pradesh 2. Assam³ 3. Jharkhand 4. Kerala 5. Maharashtra 6. Nagaland

		11. Punjab 12. Tamil Nadu 13. Tripura 14. Uttarakhand		
6	Initiation of Suo Motu action for delays in filing	1. Gujarat 2. Sikkim		
7	Revenue gap between Average Revenue Requirement (ARR) and Average Cost of Supply (ACS) per unit	States where revenue gap is nil: 1. Andhra Pradesh 2. Himachal Pradesh 3. Karnataka 4. Madhya Pradesh 5. Meghalaya 6. Tamil Nadu 7. Uttarakhand 8. West Bengal (for WBSEDCL) Positive revenue gap: 1. Delhi (BYPL & NDMC) 2. Gujarat (Torrent Power Limited - Surat) 3. Haryana 4. Odisha	States which have shown revenue gap: 1. Bihar 2. Chhattisgarh (for CSPDCL and BSP) 3. Delhi (BRPL and TPDDL) 4. Gujarat (DGVCL, MGVCL, PGVCL, UGVCL, TPL-A, MUPL) 5. JERC (Goa & UTs –Puducherry, Andaman & Nicobar, Goa) 6. JERC (M&M) 7. J&K 8. Kerala 9. Sikkim 10. Tripura 11. Uttar Pradesh	States which have not furnished details on revenue gap: 1. Arunachal Pradesh 2. Assam 3. Jharkhand 4. Maharashtra 5. Nagaland 6. Punjab 7. Rajasthan
8	Treatment of revenue gap[^]	ERCs which have not allowed creation of regulatory assets: 1. Andhra Pradesh 2. Chhattisgarh (for BSP) 3. Gujarat 4. Himachal Pradesh 5. JERC (Goa & UTs)- Chandigarh 6. Kerala 7. Madhya Pradesh 8. Odisha	ERCs which have allowed creation of regulatory assets: 1. Bihar 2. Chhattisgarh (for CSPDCL) 3. JERC (Goa & UTs) -Puducherry 4. Karnataka ¹¹ 5. Tamil Nadu 6. Uttar Pradesh(for NPCL) 7. West Bengal (WBSEDCL) ¹⁷	

		9. Punjab 10. Sikkim 11. Tripura 12. Uttarakhand 13. Uttar Pradesh (for MVVNL, PVVNL, PuVVNL, DVVNL) States where the gap is being met by the Government: 1. JERC (M&M) 2. J & K		
9	True up filing as per the regulations	1. Andhra Pradesh 2. Bihar 3. Chhattisgarh 4. Madhya Pradesh 5. Odisha 6. Punjab 7. Tamil Nadu	1. JERC (M&M) 2. Delhi 3. Uttar Pradesh	1. Arunachal Pradesh 2. Assam 3. Gujarat 4. Himachal Pradesh 5. Haryana 6. Jammu & Kashmir 7. Jharkhand 8. JERC (Goa & UTs) 9. Karnataka 10. Kerala 11. Maharashtra 12. Meghalaya 13. Nagaland 14. Rajasthan 15. Sikkim 16. Tripura 17. Uttarakhand 18. West Bengal
10	True up order as per the regulations	1. Andhra Pradesh 2. Bihar 3. Chhattisgarh (for CSPDCL) 4. Himachal Pradesh 5. Haryana 6. Madhya Pradesh 7. Odisha	1. Delhi 2. Punjab ¹⁴ 3. Uttar Pradesh	1. Arunachal Pradesh 2. Assam 3. Gujarat 4. Jammu & Kashmir 5. Jharkhand 6. JERC (Goa & UTs) 7. JERC (M&M)

		8. Punjab 9. Tamil Nadu		8. Karnataka 9. Kerala 10. Maharashtra 11. Meghalaya 12. Nagaland 13. Rajasthan 14. Sikkim 15. Tripura 16. Uttarakhand 17. Uttar Pradesh 18. West Bengal
11	Fuel surcharge adjustment formula/ mechanism in the regulations	1. Andhra Pradesh 2. Assam 3. Chhattisgarh (for CSPDCL) 4. Delhi 5. Gujarat 6. Haryana 7. Himachal Pradesh 8. JERC (Goa & UTs) 9. JERC (M & M) 10. Kerala 11. Madhya Pradesh 12. Meghalaya 13. Odisha 14. Punjab 15. Rajasthan 16. Tamil Nadu 17. Tripura 18. Uttar Pradesh (for DVVNL, MVVNL, PVVNL, PuVVNL and NPCL) 19. West Bengal	1. Bihar 2. Jammu & Kashmir 3. Karnataka ⁵ 4. Himachal Pradesh ⁶ 5. Uttarakhand ⁶ 6. Sikkim ¹⁶	1. Arunachal Pradesh 2. Maharashtra 3. Nagaland
12	Frequency of adjustment¹³	Quarterly: 1. Andhra Pradesh 2. Assam 3. Chhattisgarh (for	Monthly: 1. Bihar 2. Chhattisgarh (for	

		CSPDCL) 4. Delhi 5. Gujarat 6. Haryana 7. Himachal Pradesh 8. JERC (Goa & UTs) 9. Kerala 10. Madhya Pradesh 11. Meghalaya 12. Punjab 13. Rajasthan 14. Tamil Nadu 15. Tripura 16. Uttar Pradesh (for MVVNL, PVVNL, PuVVNL, DVVNL, NPCL)	JSPL) 3. JERC (M&M) ¹² Yearly: 1. West Bengal		
13	Fuel Surcharge adjustment being done as per the Regulations	1. Andhra Pradesh 2. Assam 3. Bihar 4. Chhattisgarh (for CSPDCL) 5. Delhi 6. Gujarat 7. Haryana 8. Himachal Pradesh 9. JERC (Goa & UTs) 10. Madhya Pradesh 11. Punjab 12. Tamil Nadu 13. Uttarakhand ⁷ 14. Uttar Pradesh (for MVVNL, PVVNL, PuVVNL, DVVNL and NPCL) 15. West Bengal	1. Karnataka ⁸ 2. Sikkim ⁹ 3. JERC (M&M) ¹⁰ 4. Tripura	1. Arunachal Pradesh 2. J & K 3. Jharkhand 4. Kerala 5. Maharashtra 6. Meghalaya 7. Nagaland 8. Odisha 9. Rajasthan	

- ¹: Uttarakhand ERC stated that APR filing has been incorporated in MYT Regulation, 2011 which shall come into effect from 01.04.2013, i.e. for the Control Period FY 2013-14.
- ²: Andhra Pradesh ERC has reported that the time for issuing the APR order is not yet due.
- ³: Assam ERC stated that following the APTEL order in OP No.1 of 2011, the Commission directed the licensees (APGCL, AEGCL and APDCL) to comply with the order and file petition for APR of 2011-12, True Up for 2009-10 and 2010-11 and determination of ARR for 2012-13. Subsequently, APGCL filed the petition on 28.09.2012 while the Transco and Discom were granted time till 15.11.2012 failing which Suo Motu action was to be initiated.
- ⁴: Arunachal Pradesh ERC stated that it came into workable stage only in July 2011. The Utilities in Arunachal Pradesh, which are Government Departments, have already been requested to file the Tariff Petitions and that they are in the final stages of filing their respective Tariff Petitions for the first time. The Commission has so far not taken any Suo Motu action due to delay on this account as the Departments are new to this exercise and doing it for the first time.
- ⁵: Karnataka Commission has stated that a separate order on fuel surcharge adjustment would be issued in due course of time.
- ⁶: Himachal Pradesh and Uttarakhand ERCs have not provided fuel surcharge adjustment mechanism in the regulations as there are no thermal generating stations in these States. However, such provision has been provided in the MYT Regulations of Uttarakhand which will come into effect from April 01, 2013, for the Control Period FY 2013-14 with quarterly adjustments.
- ⁷: The Commission of Uttarakhand has stated that the FSA provision has been made in the Multi Year Tariff (MYT) Regulations for the Control Period FY 2013-14 with quarterly adjustments. However, at present, fuel surcharge adjustment bills raised by Central Generating stations are being paid by the licensee and the same is being allowed as power purchase cost in the ARR.
- ⁸: Karnataka Commission in the tariff order for 2012-13 issued on 30th April, 2012 directed all the licensees to submit certain data for fuel cost variation. After the analysis of the same, a separate order would be issued to be effective from the current year.
- ⁹: Sikkim ERC has stated that FSA will be provided in the next tariff order
- ¹⁰: JERC (M&M) has stated that FSA has not been made due to non availability of fossil fuel based generation in the State.
- ¹¹: Karnataka Commission has carried forward the gap to the next year.
- ¹²: JERC (M&M) has reported both monthly/ quarterly adjustment of Fuel Surcharge

¹³: Although the regulations provide for quarterly adjustment of Fuel Surcharge in the State of Rajasthan, no information has been provided regarding the actual adjustments being made in FY 2012-13. In the State of Sikkim, FSA will be provided in the next tariff order. The Commission of Uttarakhand has stated that the FSA provision has been made in the Multi Year Tariff (MYT) Regulations for the Control Period FY 2013-14 with quarterly adjustments. However, at present, fuel surcharge adjustment bills raised by Central Generating stations are being paid by the licensee and the same is being allowed as power purchase cost in the ARR.

For the State of Uttar Pradesh, in tariff order dated 19th Oct, 2012 it has been provided that the FPPCA will be applicable from Jan-March 2013 quarter. Haryana has reported that as per the regulations utility can recover FSA in respect of approved sources of power purchase on monthly basis but the FSA is generally for short term purchases for which utility has to file separate petition. Rajasthan has not provided information regarding actual adjustments for FSA in FY 2012-13. JERC (M&M) has stated that FSA has not been made due to non availability of fossil fuel based generation in the State.

West Bengal is doing yearly (FCA/FPPCA) and Monthly (MFCA/MVCA) subject to reconciliation along with FCA/FPPCA.

¹⁴: The True-up for 2010-11 for Punjab could not be undertaken, as PSPCL did not submit Audited Accounts due to non finalization of Transfer Scheme by the Govt. of Punjab.

¹⁵: The Sikkim Commission began functioning only in Nov. 2011. Therefore, data for the period prior to 2011 is not available. However, SSERC issued Suo Moto Tariff order on 30.03.2012 for 2012-13.

¹⁶: First tariff order for Sikkim issued for 2012-13. FSA formula will be provided in the next tariff order.

¹⁷: West Bengal Commission adjusted part of the Regulatory Assets created out APR/ Truing up for 2008-09, 2009-10 and 2010-11.

[^]: Despite showing no revenue gap between ARR and ACS, Tamil Nadu Commission has stated that Regulatory Assets have been created. In case of J &K, the revenue gap is being met by the State Government and in case of Uttar Pradesh (for NPCL) the revenue gap is being met by way of regulatory surcharge of 8%.

The Commissions of Tamil Nadu, Uttar Pradesh (for NPCL) and Chhattisgarh (for CSPDCL) have reported that the carrying cost shall be/ have been allowed. Delhi Commission has stated that for meeting the revenue gap till FY 2010-11 and liquidation of revenue gap, the Commission has decided to introduce a surcharge of 8% over the revised tariff in FY 2012-13. Bihar Commission and JERC (Goa & UTs) have created regulatory assets but did not allow the carrying cost of these regulatory assets.