

**MINUTES OF THE TWENTIETH MEETING OF**  
**FORUM OF REGULATORS (FOR)**

**VENUE** : Mascot Hotel, Thiruvananthapuram (Kerala)

**DATE** : 25<sup>th</sup> – 26<sup>th</sup> September, 2010.

The meeting was chaired by Dr. Pramod Deo, Chairperson, CERC/FOR. The list of participants is at **Annexure-I**.

**Agenda Item No.1: Confirmation of the Minutes of the 19<sup>th</sup> Meeting of “FOR” held on 30<sup>th</sup> July, 2010 at New Delhi.**

The Forum confirmed the minutes of the 19<sup>th</sup> Meeting of FOR held at New Delhi on 30<sup>th</sup> July, 2010 as circulated.

A discussion was held on the inputs received from CERC on the issue of powers of the Electricity Regulatory Commissions for enforcing their orders. While appreciating the position that various judicial pronouncements of the Supreme Court and High Courts could be impliedly read to confer powers of execution of its orders to an Electricity Regulatory Commission, it was felt by many members that there was a need to have a clear legal position in the matter.

It was further suggested by Chairperson, Kerala ERC that the provisions regarding recovery of penalty amount under section 170 of the Electricity Act should be extended to cover recovery of fees due under the Act.

Chairperson, PSERC suggested that the ERCs should also have legal powers to ensure enforceability of the orders being passed by the Consumer Grievance Redressal Forums and Ombudsman. Chairperson, APERC said that while taking steps for stricter enforceability of the orders being passed by the CGRFs and Ombudsmen, there was also a need to provide for a right to appeal to the licensees against the order of the CGRFs. Member, MPERC said that under their regulations it had been provided that any person aggrieved by non-compliance of the laid down procedures by CGRFs and Ombudsmen has a right to approach the SERC for redressal. After discussions, the Forum recalled that this issue had been settled long back while accepting the recommendations of the concerned Working Group. A distribution licensee cannot have right to appeal against the order of the CGRF which is set up by itself and envisaged as an organ of the licensee in the law. As such the licensees have been occasionally approaching the High Courts under writ jurisdiction.

After discussions, the FOR Secretariat was directed to obtain legal opinion from the Solicitor General for confirming and clarifying the course of action available to ERCs for enforcing their orders. After examining the opinion so received, further action could be taken for advising the Ministry of Power to amend the provisions in the Electricity Act, if required.

## **Agenda Item No.2: CAG Report on Viability of Distribution Utilities.**

A presentation was made by Shri S.K. Chatterjee, Dy. Chief (RA), CERC, a copy of which is enclosed at **Annexure-II**. After discussions on various aspects, the members of the Forum while recognizing the need for adequate tariff revisions felt that a more detailed analysis was required taking into account the grounds for various disallowances in the orders of the SERCs approving Annual Revenue Requirement and also the True-Up orders. FOR Secretariat was directed to

circulate the full reports referred to in the presentation to all the SERCs for facilitating such analysis.

During the discussions, it also emerged that reasonable short-term borrowing costs/carrying costs needed to be allowed in respect of delayed payment of subsidy, regulatory assets or delay in tariff revision to cover the gap in ARR.

It emerged in the discussions that there had been repeated instances of licensees heavily overdrawing under UI mechanism and in some cases the tariff for short-term power purchase were being negotiated at government level subject to approval by concerned SERC. There was a consensus that the ERCs should frame regulations specifying the procedures to be adopted by the licensees for procuring power on short-term basis. Member, MPERC mentioned that they have already framed such regulations and Chairperson, Karnataka ERC said that they were in the process of doing so. MPERC also referred to a recent ruling of APTEL in a matter of short-term power purchases.

**Agenda Item No. 3: Discussion on “Model Regulation on Open Access for Consumer”.**

A presentation was made by FOR Secretariat, a copy of which is enclosed at **Annexure-III**. The model regulations were approved by Forum with the following modifications:

- a) The annual reduction in cross-subsidy surcharge at linear rate of 20% should commence from the year in which a SERC has allowed open access to a particular category of consumers.
- b) For the consumers having TOD meter and the load of less than 10 MW, scheduling by the generator from where power have been procured should be mandated.

- c) Individual SERC may specify the number of days before which a distribution licensee should declare scheduled load shedding.
- d) While computing 'available capacity', new demand should be subtracted.
- e) 'Sustained demand' should be clarified to mean peak load experienced.
- f) The fee for open access should be in two slabs. A higher level of fee may prescribe for a consumer having larger load.

The model regulations should be finalized accordingly and the FOR Secretariat should further undertake exercise for preparing model detailed procedure.

During the discussions, the following issues also came up.

- (i) On the issue of liability of a consumer connected to STU system for payment of wheeling charges to the distribution licensee, it was felt by several members that a distribution licensee would be entitled to recover wheeling charges only in cases where open access electricity is actually wheeled over its network. Further, such payment of wheeling charges would be governed by the conditions of supply if there existed an agreement between the distribution licensee and the entity seeking open access.
- (ii) On the suggestions from PSERC and HERC, FOR Secretariat was directed to undertake an impact analysis for assessing the impact of allowing open access on the finances of the concerned distribution licensees.

**Agenda Item No. 4: Consideration of report of Study on “Standard Model for Distribution Franchisee”.**

A presentation was made by M/s. Feedback Ventures Pvt. Limited, a copy of which is enclosed at **Annexure-IV**. After discussions, the FOR directed that the

recommended standard guidelines and the model documents should be finalised with the following modifications:

- a) The payment security should also include escrow in addition to Letter of Credit.
- b) The approval on capex during the last five years of the contract should be sought by franchisee from ERC through the distribution licensee.
- c) It should be rechecked that the exit provisions have sufficient safeguards to ensure return of land and other assets to the distribution licensee.

It was also felt that while it would be desirable to adopt the franchisee model as finalized, a SERC may also permit other institutions such as cooperative society, Panchayati Raj institution for being deployed as franchisee keeping in view the local conditions and the size of area to be franchised.

**Agenda Item No. 5.1: Proposal for Study on “Prepaid Metering – Legal & Regulatory Issues”.**

The proposal was approved.

**Agenda Item No. 5.2: Proposal for Study on “Off-grid Renewable Power Generation”.**

The proposal was approved.

**Agenda Item No. 5.1: Proposal for Training Programme on “Open Access, Power Exchange and Transmission Pricing”.**

The proposal was approved.

## **Other Issues**

(i) Chairperson, Assam ERC said that three distribution companies were created as a process of reorganization of the erstwhile ASEB and the State Government had recently merged two distribution companies in third distribution company. A discussion was held on the role of a SERC in such a case. It was noted by Forum that approval of SERC was required for merging the utility of distribution licensee with the utility of another licensee as provided in section 17 of the Electricity Act. This provision further provided that any merger unless made with prior approval of SERC shall be void. It was suggested that the concerned SERC could also initiate suo-motu proceeding in such case.

ii) Chairperson, HERC said that the proposal being considered by the State Government for constituting the HERC Fund was involving permission of the State Government for release of the fee and other amount envisaged to be deposited in the public account. After discussions, it was decided that FOR Chairperson, upon receipt of a formal reference from HERC, would take up this matter with CAG to ensure that autonomy of SERCs was not compromised in the process of operationalizing these Funds.

Chairperson, CERC/FOR placed on record appreciation of Forum for the services of Shri Alok Kumar, Secretary, CERC in assisting the Forum for organizing and conducting its meetings during his tenure.

The Forum also thanked Kerala ERC for making various arrangements for the meeting. The meeting ended with a vote of thanks to the Chair.

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**LIST OF PARTICIPANTS ATTENDED THE TWENTIETH MEETING**  
**OF**  
**FORUM OF REGULATORS ( FOR )**  
**HELD DURING 25<sup>TH</sup> – 26<sup>TH</sup> SEPTEMBER, 2010**  
**AT MASCOT HOTEL, THIRUVANANTHAPURAM (KERALA)**

| S. No. | NAME                                       | ERC   |
|--------|--|---|
| 01.    | Dr. Pramod Deo<br>Chairperson              | CERC – in Chair.                            |
| 02.    | Shri A. Raghotham Rao<br>Chairperson       | APERC                                       |
| 03.    | Shri Jayanta Barkakati<br>Chairperson      | AERC  |
| 04.    | Shri B.K. Halder<br>Chairperson            | BERC  |
| 05.    | Shri Manoj Dey<br>Chairperson              | CSERC                                       |
| 06.    | Dr. P.K. Mishra<br>Chairperson             | GERC  |
| 07.    | Shri Bhaskar Chatterjee<br>Chairperson     | HERC  |
| 08.    | Shri Yogesh Khanna<br>Chairperson          | HPERC                                       |
| 09.    | Shri S. Maria Desalphine<br>Chairperson    | J&KSERC                                     |
| 10.    | Shri Mukhtiar Singh<br>Chairperson         | JSERC                                       |
| 11.    | Dr. V.K. Garg<br>Chairperson               | Joint ERC for Goa & all<br>UTs except Delhi |
| 12.    | Shri Hemam Bihari Singh<br>Chairperson     | Joint ERC for Manipur &<br>Mizoram          |
| 13.    | Shri M.R. Sreenivasa Murthy<br>Chairperson | KERC  |
| 14.    | Shri K.J. Mathew<br>Chairperson            | KSERC                                       |
| 15.    | Shri P.J. Bazeley<br>Chairperson           | MSERC                                       |

|      |  |       |
|------|--|-------|
| 16.  | Bijoy Kumar Das<br>Chairperson                                   | OERC  |
| 17.  | Jai Singh Gill<br>Chairperson                                    | PSERC |
| 18.  | Shri D.C. Samant<br>Chairperson                                  | RERC  |
| 19.  | Shri S. Kabilan<br>Chairperson                                   | TNERC |
| 20.  | Shri Manoranjan Karmakar<br>Chairperson                          | TERC  |
| 21.. | Shri V.J. Talwar<br>Chairperson                                  | UERC  |
| 22   | Shri Rajesh Awasthi<br>Chairperson                               | UPERC |
| 23.  | Shri Prasad Ranjan Ray<br>Chairperson                            | WBERC |
| 24.  | Shri K.K. Garg<br>Member   | MPERC |
| 25.  | Shri Alok Kumar<br>Secretary                                     | CERC  |
| 26.  | Shri Sushanta K. Chatterjee<br>Deputy Chief (Regulatory Affairs) | CERC  |





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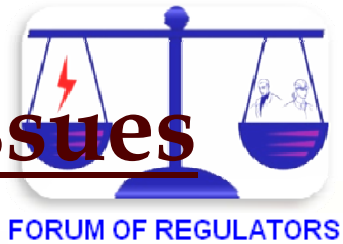
# **Forum of Regulators Meeting**

## **Agenda**

### ***CAG Report on Financial performance of Discoms***

20<sup>h</sup> Meeting of 'FOR'  
25-26<sup>th</sup> Sept, 2010

# Snapshot of CAG report – Key issues



- Tariff Inadequacy
  - 32.7 % Deficit in recovery of Cost of supply (2008-09)
- Non-Filing of ARR petition
  - Cases of Rajasthan and Punjab highlighted
- Cross Subsidization of Power
  - Andhra Pradesh & Rajasthan : Domestic & Agriculture sector heavily subsidized
  - Tariff fixation is substantially lower than 80% of average cost of supply
- Power Purchase Cost
  - Power Purchase costs & O&M expenses increasing but tariffs are not in tune
- Transmission & Distribution losses high

# Snapshot of Thirteenth Finance Commission Recommendations



- Tariff Revisions
  - Marked aversion to tariff increases
- Technical Losses
  - Present levels of technical losses in the networks unacceptably high
- Regulatory institutions need serious strengthening in states
  - Capacity Building
  - Leadership issues
  - Independence of Regulator
- Absence of guidelines for procurement of power from market
- Planning and Forecasting –
  - Distribution sector requires substantial improvements to manage its finances
- Enhanced private participation through franchising needed

# Issues






- Tariff Adequacy
- Losses
- Tariff Rationalization and Cross Subsidy



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# Tariff Adequacy

- Tariff lower than break even levels (CAG report)
  - 32.5% deficit as % of recovery of cost of supply
- Tariff Revisions not effected (13<sup>th</sup> Fin. Comm. report) 
- CAGR of Power Purchase Cost > CAGR of Tariff hike (CAG Report) 
- High Power purchase cost (13<sup>th</sup> Fin. Comm. report)
  - Lack of planning and forecasting for procurement
  - Short term procurement is high
  - Short term cost of power is high
- Tariff increases necessary for financial viability (13<sup>th</sup> Fin. Comm.) 

# Losses



- Transmission and Distribution losses (CAG report)
  - Around 26.25 per cent in years from 2005-06 to 2008-09
  - Commercial loss due to T&D loss aggregated Rs. 60137.22 Cr
- Projected Net losses for Discoms (2008 tariffs)
  - (13<sup>th</sup> Fin. Comm. report)

| 2010-11   | 2011-12   | 2012-13   | 2013-14   | 2014-15    |
|-----------|-----------|-----------|-----------|------------|
| 68643 Cr. | 80319 Cr. | 88170 Cr. | 98664 Cr. | 116089 Cr. |

- Gap between the ARR (Actual Realized Revenue) and ACS (Actual Cost of Supply) is widening (PFC report)
- Poor Operating Margins (CAG report)
  - Norm of 20%
  - -11.42% in Haryana (FY 08-09)
  - -12.36% in Tamil Nadu during (FY 07-08)

# Tariff Rationalization & Cross Subsidy



- Cross-subsidies have increased from 2005-06 to 2008-09 to unsustainable levels (13<sup>th</sup> Fin. Commission)
- Tariff Realization as percentage of Cost of Supply for various States (Study by FOR) 
- SERCs have taken initiatives but no clear road map (Study by FOR)
  - A clear roadmap with milestones to bring down the cross subsidy to within  $\pm 20\%$  of ACS still needs to be notified by SERCs
- CAG report says :
  - Urgent need to correct without giving tariff shock
  - Cross-subsidies need to be reduced progressively and gradually



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Thank you



# Tariff Revisions – 13<sup>th</sup> Fin. Commission Report



| Tariff last Revised | No. of states |
|---------------------|---------------|
| 1 year              | 9             |
| 1-2 years           | 3             |
| 2-3 years           | 2             |
| 3-5 years           | 2             |
| > 5 years           | 5             |



# Tariff Revisions by SERCs



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| S. No. | SERC     | Tariff reviewed<br>2008-09 | Tariff<br>reviewed<br>2007-08 | Tariff<br>reviewed in<br>2006-07 | Tariff<br>reviewed in<br>2005-06 | Tariff<br>reviewed<br>in<br>2004-05 | Tariff<br>reviewed in<br>2003- 04 |
|--------|----------|----------------------------|-------------------------------|----------------------------------|----------------------------------|-------------------------------------|-----------------------------------|
| 1      | APERC    | Yes                        | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 2      | AERC     | No                         | Yes                           | Yes                              | Yes                              | Yes                                 | No                                |
| 3      | BERC     | Yes                        | No                            | Yes                              | No                               | No                                  | No                                |
| 4      | CSERC    | No                         | Yes                           | Yes                              | Yes                              | No                                  | No                                |
| 5      | DERC     | Control period             | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 6      | GERC     | Yes                        | Yes                           | Yes                              | Yes                              | No                                  | No                                |
| 7      | HERC     | Yes                        | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 8      | HPERC    | Yes                        | Yes                           | Yes                              | Yes                              | No                                  | No                                |
| 9      | J&KSERC  | Yes                        | No                            | No                               | No                               | No                                  | No                                |
| 10     | JSERC    | No                         | No                            | Yes                              | No                               | No                                  | Yes                               |
| 11     | KERC     | Yes                        | Yes                           | Yes                              | Yes                              | No                                  | Yes                               |
| 12     | KSERC    | Yes                        | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 13     | MPERC    | Yes                        | Yes                           | Yes                              | Yes                              | Yes                                 | No                                |
| 14     | MERC     | Yes                        | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 15     | MsERC    | Yes                        | Yes                           | No                               | No                               | No                                  | No                                |
| 16     | OERC     | Yes                        | Yes                           | Yes                              | Yes                              | No                                  | Yes                               |
| 17     | PSERC    | Yes                        | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 18     | RERC     | Control period             | Yes                           | Yes                              | Yes                              | Yes                                 | Yes                               |
| 19     | TNERC    | No                         | No                            | No                               | No                               | No                                  | Yes                               |
| 20     | TERC     | No                         | No                            | No                               | No                               | No                                  | No                                |
| 21     | UPERC    | Yes                        | Yes                           | Yes                              | No                               | Yes                                 | Yes                               |
| 22     | UERC     | Yes                        | Yes                           | Yes                              | Yes                              | No                                  | Yes                               |
| 23     | WBERC    | Yes                        | Yes                           | No                               | Yes                              | Yes                                 | Yes                               |
| 24     | JERC-M&M | No                         | No                            | No                               | No                               | No                                  | No                                |
| 25     | JERC-Uts | No                         | No                            | No                               | No                               | No                                  | No                                |
| TOTAL  |          | 16                         | 18                            | 18                               | 16                               | 11                                  | 14                                |





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# FOR Study : Analysis of Tariff Orders

| Sl. No | State       | CAGR of Power Purchase Cost | CAGR of Approved Cost of Supply |
|--------|-------------|-----------------------------|---------------------------------|
| 1      | Delhi       | 7%                          | 2%                              |
| 2      | UP          | 18%                         | 5%                              |
| 3      | Assam       | 2%                          | -1%                             |
| 4      | Haryana     | 13%                         | 2%                              |
| 5      | West Bengal | 14%                         | 1%                              |
| 6      | Punjab      | 14%                         | 2%                              |
| 7      | Kerela      | 10%                         | -1%                             |
| 8      | Rajasthan   | 12%                         | 1%                              |
| 9      | Orissa      | 5%                          | -1%                             |
| 10     | Uttarakhand | 18%                         | 7%                              |



# Tariff Increases proposed – 13<sup>th</sup> Finance Commission



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| State            | Present Reported Subsidy<br>(Rs. Cr) | Average Tariff Inc Required at<br>present Subsidy level (%) to<br>neutralise gap |
|------------------|--------------------------------------|--|
| Haryana          | 2,220                                | 8%   |
| Uttar Pradesh    | 1,522                                | 8.85%  |
| Punjab           | 2,549                                | 9.45%  |
| Uttarakhand      | -                                    | 10.75%   |
| Rajasthan        | 3,643                                | 4.85%  |
| Jammu&Kashmir    | -                                    | 19.25%   |
| Himachal Pradesh | -                                    | 3.05%  |
| Gujarat          | 2,036                                | 1.75%  |
| Maharashtra      | 1,786                                | 2.15%  |
| Chhattisgarh     | 48                                   | 2.05%  |
| Madhya Pradesh   | 277                                  | 6%   |
| Karnataka        | 1,802                                | 7.80%  |



# Tariff Increases proposed – 13<sup>th</sup> Finance Commission



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| State             | Present Reported Subsidy<br>(Rs. Cr) | Average Tariff Inc Required at present<br>Subsidy level (%) to neutralise gap |
|-------------------|--------------------------------------|---|
| Kerala            | -                                    | 3.70%   |
| Tamil Nadu        | -                                    | 8.25%   |
| Andhra Pradesh    | 1,308                                | 7%  |
| Jharkhand         | -                                    | 8%  |
| Bihar             | 720                                  | 11.65%  |
| Orissa            | -                                    | 5.85%   |
| West Bengal       | -                                    | 5.40%   |
| Sikkim            | -                                    | 0.00%   |
| Assam             | -                                    | 2.95%   |
| Arunachal Pradesh | -                                    | 7.85%   |
| Meghalaya         | 34                                   | 11.75%  |
| Tripura           | 50                                   | 16.25%  |
| Mizoram           | -                                    | 24.05%  |
| Nagaland          | 70                                   | 13.00%  |
| Manipur           | -                                    | 55.95%  |



# Cross Subsidy : Tariff Realization as % of Cost of Supply

| State                   | FY 09    |              |                             |             |
|-------------------------|----------|--------------|-----------------------------|-------------|
|                         | Domestic | Agricultural | Non Domestic/<br>Commercial | HT Industry |
| Andhra Pradesh ( FY 08) | 88%      | 4%           | 214%                        | 140%        |
| Assam                   | 80%      | 72%          | 130%                        | 110%        |
| Bihar                   | 52%      | 27%          | 116%                        | 101%        |
| Chhattisgarh (FY 08)    | 58%      | 54%          | 145%                        | 115%        |
| Delhi (FY07)            | 76%      | 41%          | 145%                        | 129%        |
| Gujarat                 | 82%      | 27%          | 129%                        | 144%        |
| Haryana                 | 80%      | 6%           | 100%                        | 100%        |
| Himachal Pradesh        | 50%      | 20%          | 154%                        | 111%        |
| Jharkhand (FY 07)       | 42%      | 48%          | 155%                        | 124%        |
| Jammu & Kashmir (FY 08) | 31%      | 46%          | 53%                         | 60%         |
| Karnataka               | 100%     | 17%          | 162%                        | 129%        |
| Kerala                  | 59%      | 26%          | 150%                        | 155%        |
| Madhya Pradesh          | 92%      | 72%          | 148%                        | 128%        |
| Maharashtra             | 100%     | 40%          | 170%                        | 120%        |
| Meghalaya               | NA       | NA           | NA                          | NA          |
| Orissa                  | 76%      | NA           | NA                          | 122%        |
| Punjab                  | 93%      | 73%          | 138%                        | 126%        |
| Rajasthan               | 90%      | 41%          | 131%                        | 99%         |
| Tamil Nadu              | NA       | NA           | NA                          | NA          |
| Tripura                 | NA       | NA           | NA                          | NA          |
| Uttar Pradesh           | 71%      | 49%          | 96%                         | 137%        |
| Uttarakhand             | 69%      | 24%          | 123%                        | 116%        |
| West Bengal             | NA       | NA           | NA                          | NA          |



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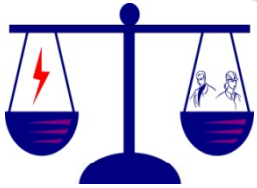
# “Model Regulation on Open Access to Consumers”



*25<sup>th</sup> September, 2010  
Kerala*

## Forum of Regulators





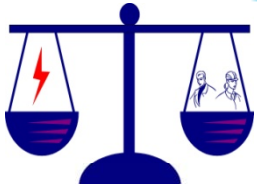
# Constitution of Working Group

- WG constituted in 19<sup>th</sup> Meeting of 'FOR' held on 30<sup>th</sup> July, 2010 . WG Members:

|    |   |                   |
|----|---|-------------------|
| 1. | Dr. Pramod Deo, Chairperson, CERC                   | - Chair           |
| 2. | Dr. P.K. Mishra, Chairperson, GERC                  | - Member          |
| 3. | Shri V.J. Talwar, Chairperson, UERC                 | - Member          |
| 4. | Shri Jayanta Barkakati, Chairperson, AERC           | - Member          |
| 5. | Sh. Jai Singh Gill, Chairperson, PSERC              | - Special Invitee |
| 6. | Shri K. Venugopal, Member, TNERC                    | - Member          |
| 7. | Shri Satpal Singh Pall, Member, PSERC               | - Member          |
| 8. | Sh. Alok Kumar, Secretary, FOR/CERC                 | - Member          |
| 9. | Sh. Sushanta K. Chatterjee, Deputy Chief (RA), CERC | - Convener        |

- Mandate to evolve "Model Regulation for Open Access to the Consumers" within one month.
- WG also invited the comments on the working draft from SERCs and these were duly considered before finalising the recommended draft.
- Model Regulations evolved by WG after three meetings.





# SERCs Comments on Final Draft

- CSERC comments have been examined and accordingly responded on each issue. Some of their suggestions are being incorporated.
- UERC has raised the following issue
  - “Whether a new consumer connected to STU is liable to pay wheeling charges”.



# In this Presentation...

## OPEN ACCESS

**1. Connectivity**

**2. Eligibility for Open Access**

**3. Open Access to Consumers**

**4. Open Access to eligible entities other than consumers and Gencos connected to Discom**

**5. Common provisions for Open Access**

**6. Open Access to Gencos connected to Discom**

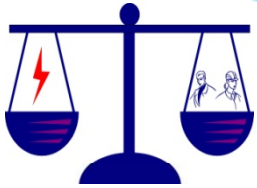
# 1. CONNECTIVITY



# Connectivity - Eligibility

- **Intra-State transmission system:**
  - consumer having load  $\geq 10$  MW
  - Generating Station with capacity  $\geq 10$  MW.
- **Distribution system:**
  - Generating Station having capacity  $< 10$  MW.

## **2. ELIGIBILITY FOR OPEN ACCESS**



# Eligibility for Open Access

## OPEN ACCESS

### Eligible Entities

#### Intra-State Transmission System

Licensees

GENCO

CPP

Consumers

#### Distribution System.

Licensees

GENCO

CPP

Consumers

### Condition for availing Open Access

1. Connected to Industrial feeder provided that all the customers on such industrial feeder opt for open access

2. Connected through an independent feeder

3. Other consumers can avail OA subject to rostering restrictions

#### Long-term access

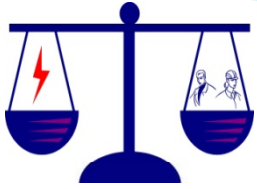
- Exceeding 12 years but not exceeding 25 years

#### Medium-term open access

- Exceeding 3 months but not exceeding 3 years

#### Short-term open access

- Up to 1 month at a time



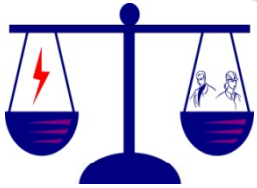
## General provisions for open access

- Criteria for granting long-term access or medium-term open access or short term open access (Intra State open access)
  - LTA with or without system augmentation
  - MTOA only without system augmentation
  - In line with CERC Regulations



### **3. OPEN ACCESS TO CONSUMERS**





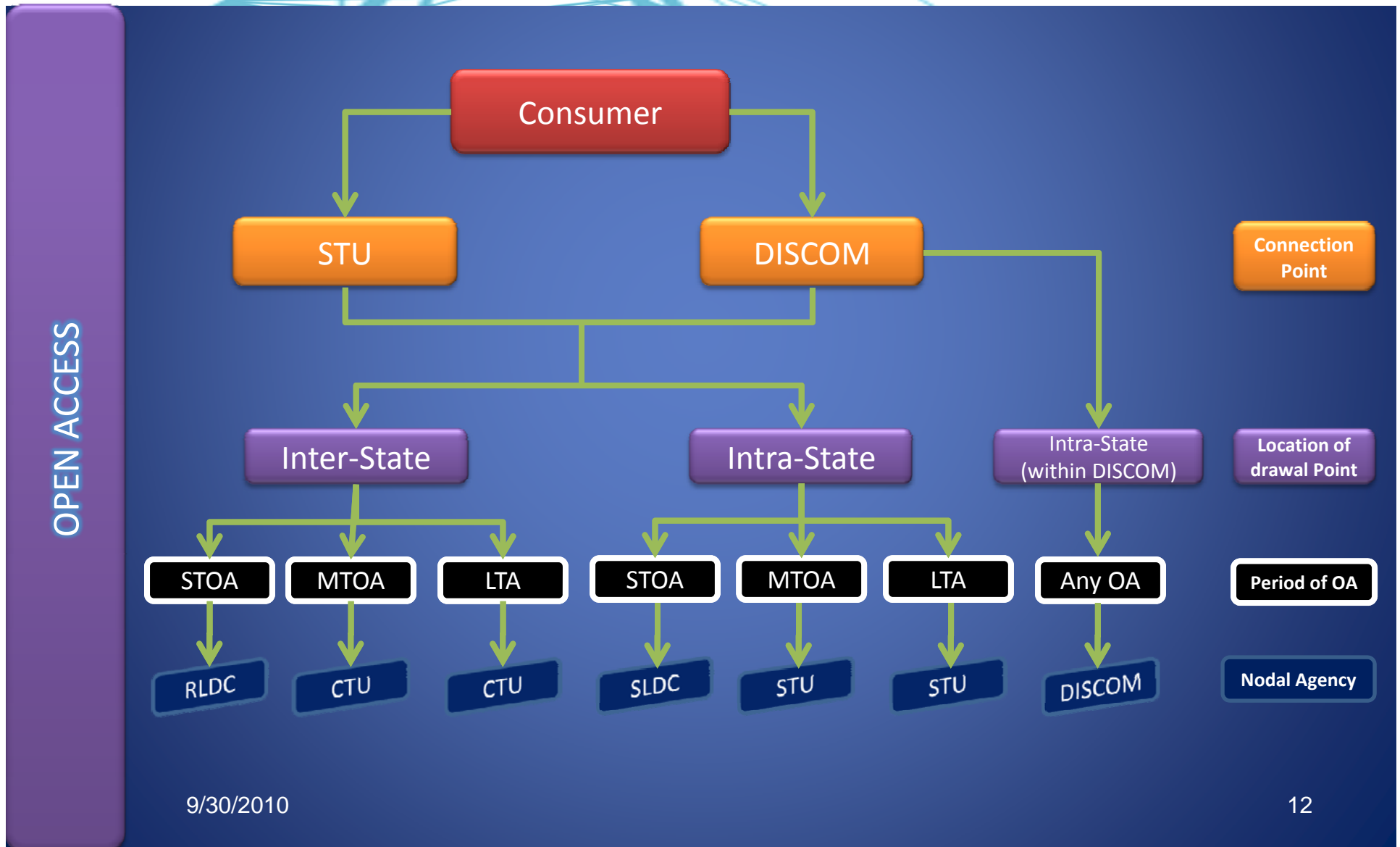
# Application procedure and approval

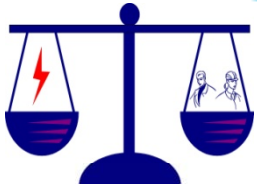
## OPEN ACCESS

- Open Access for Consumers-Criteria
  - System to which connected
    - Intra-State transmission system
    - Distribution system
  - Inter-se location of drawal and injection points
    - Both within the same distribution system
    - within the State but in different distribution systems
    - In different States
  - Duration of Open Access
    - Long term access
    - Medium-term open access
    - Short-term open access



# Open Access to Consumers



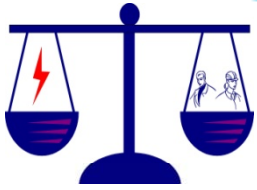


## Application procedure and approval

### OPEN ACCESS

- Consent by STU, SLDC or Distribution Licensee
  - Inter-State open access: As per CERC Regulation
  - Intra-State Open Access : Consent of Distribution Licensee for Genco on verification of existence of metering infrastructure and capacity in distribution system- within 3 days
- Consideration of applications from defaulters
  - Nodal Agency shall be at liberty to summarily reject such application for Open Access

## **4. OPEN ACCESS TO ENTITIES OTHER THAN CONSUMERS AND GENERATING STATIONS CONNECTED TO DISTRIBUTION SYSTEM**

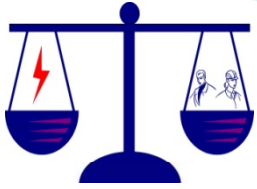


## Application procedure and approval

- Traders applying for Open Access on behalf of consumers will follow the same procedure as applicable for consumers.

## **5. COMMON PROVISIONS FOR OPEN ACCESS**





# Allotment Priority

- Inter-State – As per CERC Regulations
- Intra State –

OPEN ACCESS

Distribution Licensee

Long Term OA Customer

Medium Term OA  
Customer

Short Term OA  
Customer

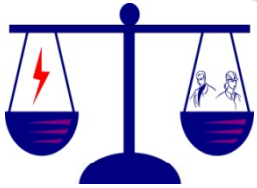


# Open Access Charges

- a) Transmission charges
- b) Wheeling charges
- c) Cross subsidy surcharge
- d) Additional Surcharge
- e) Standby charges
- f) Operating charges Load Despatch Centres

OPEN ACCESS





## a) Transmission charges

- Inter-State – As per CERC Regulations
- Intra-State :
  - Transmission Charges =  $ATC / (PLS_T \times 365)$   
(in Rs./MW-day)

Where,

- ATC = Annual Transmission Charges determined by the Commission for the State Transmission System for the previous year.
- $PLS_T$  = Peak load served by the State Transmission System in that year.
- Transmission charges shall be payable on the basis of contracted Capacity/ Scheduled Load or actual power flow whichever is higher.
- For a part of a day, the transmission charges shall be payable on pro-rata basis

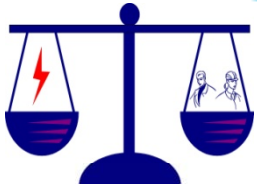


## b) Wheeling charges

- $\text{Wheeling Charges} = (\text{ARR} - \text{PPC} - \text{TC}) / (\text{PLS}_D \times 365)$   
(in Rs./MW-Day)

Where,

- ARR=Annual Revenue Requirement of the distribution licensee in the previous year
  - PPC=Total Power Purchase Cost of distribution licensee in the previous year
  - TC =Total transmission charges paid by distribution licensee for State and Inter-State transmission system in the previous year
  - $\text{PLS}_D$ =Total Peak load served by the concerned Distribution System in the previous year
- Wheeling charges shall be payable on the basis of contracted Capacity/ Scheduled Load or actual power flow whichever is higher.
  - For part of a day, the wheeling charges shall be payable on pro-rata basis.



## c) Cross subsidy and additional surcharge

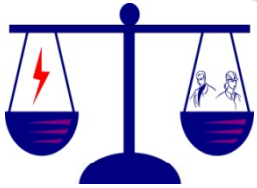
- **Cross subsidy Surcharge** to be computed as per Tariff Policy formula.
  - Surcharge shall be zero if formula gives Negative value.
  - SERC may fix lower surcharge in case of shortages and load shedding.
  - Surcharge shall be reduced by 20% every year at a linear rate.
  - In case of drastic change in power supply position or consumer load, SERC may review Surcharge.
    - Any change in cross-subsidy surcharge applicable only to the new applicants.
- **Additional surcharge** only to meet stranded cost (on account of fixed component of power purchase cost, if stranded ).



## d) Standby Charges

- Standby arrangements for a maximum period of 42 days in a year, subject to the load shedding
  - @ temporary charge subject to ceiling of highest consumer retail tariff.
- In the absence of temporary charge i,
  - fixed charges of 42 days and energy charges for that category of consumer.
- In case of continuous process industries, the licensee shall charge on the basis of actual costs involved in arranging power.
- Open Access customers would have the option to arrange stand-by power from any other source.





# Scheduling, Metering, Revision

## OPEN ACCESS

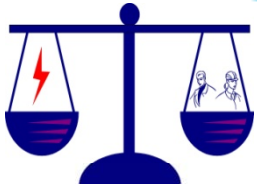
- Scheduling :
  - consumers of load 10 MW and above and all generating stations irrespective of the capacity required to schedule its OA transactions..
  - consumer having **load of less than 10 MW required no scheduling.**
- Metering:
  - Open access consumer having load of 10 MW and above and all generating stations irrespective of capacity,
    - Special Energy Meters shall be installed by the STU or the distribution licensee as the case may be, for and at the cost of the OA customer.
  - As regards open access consumers having load less than 10 MW, the meter shall be installed by the distribution licensee concerned.
- Revision:
  - Revision of scheduled energy shall be permitted in accordance with the provisions of IEGC or the State Grid Code as the case may be.



## Imbalance charges

### OPEN ACCESS

- Deviation by open access consumers **with load of less than 10 MW**
  - difference between procured OA capacity and the actual drawal
  - accounted through the Time of Day (ToD) Meters on monthly basis
  - settled at the rate of the imbalance charge as determined by SERC (*where not determined, UI rate as determined by CERC shall be applicable*).
  - In case of under drawal as a result of non availability of the distribution system or unscheduled load shedding, the open access consumer shall be compensated by the distribution licensee at the **average power purchase cost** of the distribution licensee.
- Deviations in respect of open access consumers **with load of 10 MW and above** and the Generating Stations
  - Settled based on the composite accounts issued by SLDC on a weekly cycle based on the rates specified SERC.



## Reactive energy charges

- Open access consumer having **a load of 10 MW or above**, reactive energy charges as per State Grid Code.
- Open access consumers of **load less than 10 MW**, reactive energy charges shall be calculated on Power Factor basis as specified by SERC.

## **6. LIMITED SHORT TERM OPEN ACCESS**





# Eligibility

## OPEN ACCESS

Open Access only during pre-scheduled load shedding due to shortage of power

Any consumer of the licensee having contracted load upto which Open Access has been allowed by the Commission

connected through an independent feeder emanating from a grid substation of licensee or industrial feeder provided that all the consumers on such industrial feeder opt for Limited Short term open access and having simultaneous schedule of drawal under such open access

the minimum schedule for drawl of power through open access in each time slot during the day shall not be less than maximum demand recorded during previous month or 80% of its contracted load whichever is higher.



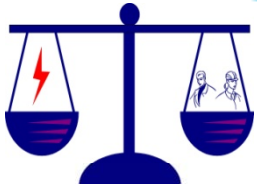
# Overdrawal / Underdrawal

- **Overdrawal**

- Rate of penalty for each time slot (Rs./kVA of contracted load) shall proportionate to the percentage of excess drawal as above and shall be equal to Rs. 0.10 for each percent

- **Underdrawal**

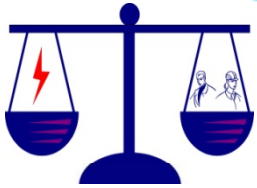
- OA consumer shall be compensated at average rate for power purchase cost by distribution licensee



## General provisions

- Charges
  - exempted from payment of Transmission charges, Wheeling charges, cross subsidy surcharge and additional surcharge.
- Nodal Agency – SLDC
- Metering
  - the existing ToD meter installed at their premises shall serve the purpose for energy accounting and billing.

## **7. OPEN ACCESS TO GENERATING STATION CONNECTED TO DISTRIBUTION SYSTEM**



## Open access to generating station connected to distribution system

### OPEN ACCESS

- Same procedure as applicable for a consumer seeking open access under different scenarios.
- While processing the application the distribution licensee shall verify the following, namely-
  - Existence of infrastructure necessary for time-block-wise energy metering and accounting, and
  - Availability of capacity in the distribution network.
- The Generating station shall pay Open Access charges except cross subsidy surcharge and additional surcharge, to the distribution licensee as determined by the Commission.
- The treatment of deemed generation in case of non availability of distribution system shall be settled mutually between the generating station and the distribution licensee.

9/30/2010

# THANK YOU



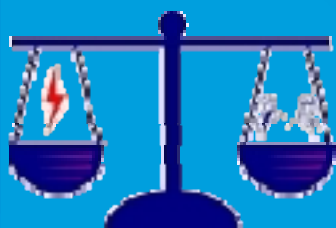
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# “ Standardization of Distribution Franchising Model ”

FORUM OF REGULATORS  
(FOR)





**1**

**Objective**

**2**

**Approach Adopted**

**3**

**Stakeholders Discussion**

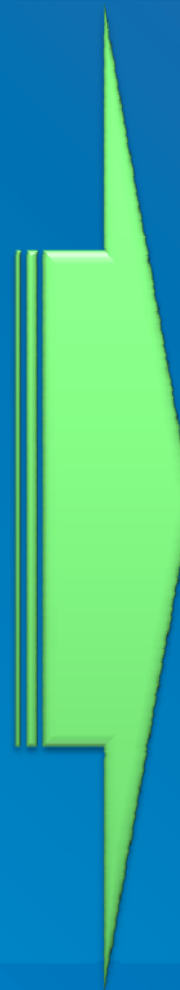
**4**

**Key Recommendations**



# Project Objective

- To take up Distribution Franchising in a methodical and integrated manner to attain institutionalization
- To ensure that the various layers of information, issues and challenges are properly analyzed and understood by all stakeholders - the Regulator; the Franchisor (Distribution Company) and the Franchisee (Private Entrepreneur)



**Standard Contract  
Structure**

**Standard Bidding  
Document**

# Approach Adopted

Document Review of the transactions in the past

Identification of critical and sub- critical elements for distribution franchising

Analysis of each of the critical elements from the consultant's and stakeholders' point of view

Stakeholders discussion on the identified points and internal brainstorming with FOR Sectt.

Formulation of Draft Standard Guidelines, Request for Proposal and Distribution Franchise Agreement

# Stakeholder's Discussion Agenda - RFP

| S. No | Parameters                          | Decision Points  |
|-------|-------------------------------------|--|
| 1     | Franchise Area                      | Criterion for selection of the area. Should it include both HT and LT consumers or only LT consumers.  |
| 2     | Information in the bidding document | How much and what information regarding the area should be a part of the Bidding Document  |
| 3     | Cost of bidding document            | Criterion for deciding the cost. Can it be linked to the revenue size of the area  |
| 4     | Pre-Qualification Criteria          | Optimum PQR to ensure quality as well active participation. Should the participation be restricted only to power sector/distribution sector companies  |
| 5     | Consortium/ Joint Venture Bids      | Can it be allowed and if so what shall be the framework of such consortium.  |
| 6     | Capital Investment                  | <ul style="list-style-type: none"> <li>Utility to specify the minimum capital investment amount in the Bid Document or can be left to the franchisee to make capital investment as per the need.</li> <li>In case the Utility specifies the capital investment to be done by the franchisee, should Detailed Project Report of the area be a part of the bidding document.</li> <li>Utility to discontinue all the planned or future investments in the franchise area or continue with same.</li> </ul> |
| 7     | Evaluation Criteria                 | Methodology to compute the levelised input energy rate or Bulk Sale Tariff (BST): <ul style="list-style-type: none"> <li>Separate HT and LT input rate</li> <li>Should increase in energy growth be considered during BST computation</li> <li>Discounting rate to be considered for computation of levelised input rate.</li> </ul>   |

# Stakeholder's Discussion Agenda - DFA

| S. No. | Parameter   | Decision Points  |
|--------|---|--|
| 1      | Contract Period   | Very short or excessively long, based on investment utilization and lower payout to franchisee, review mechanism, provision for extension beyond contract period   |
| 2      | Baseline Parameters   | Whether average billing rate to be treated as frozen or open to revision post award on ground validation of baseline parameters, adjustment of input rates in case of deviation or not                   |
| 3      | Performance Benchmarks  | Year on Year loss reduction to be specified or lump sum target over a period of time   |
| 4      | Supply of Energy  | Minimum supply to be assured or not, basis of fixing minimum supply, minimum supply each year or simply growth rate to be mentioned OR total supply to be met with or without corresponding availability |
| 5      | Energy Procurement from other sources   | Regulatory approvals , quantum of energy, involvement of Utility   |
| 6      | Billing and Payment Mechanism   | Periodicity of Billing and payment by Franchisee, adjustment of dues from either party, etc  |
| 7      | Treatment of Electricity Duty and Taxation  | Input Rate to be inclusive or exclusive, retention by utility/franchisee   |
| 8      | Franchisee OR Utility taking away major share of the loss reduction/ likely profits | Tariff Indexation and Consumer Mix Changes leading to increase in Revenue  |

# Stakeholder's Discussion Agenda - DFA

| S. No. | Parameter                           | Decision Points  |
|--------|-------------------------------------|--|
| 9      | Treatment of Employees              | Deputation Vs Redeployment   |
| 10     | Treatment of Existing Contracts     | Whether DF can cancel or not especially Capital Expenditure                                      |
| 11     | Handing of offices and other assets | All or some, rent, etc   |
| 13     | Adherence to Performance Benchmarks | Compliance and monitoring mechanism , consequences for non-adherence                             |
| 14     | Audit and Inspection                | Whose authority, Circumstances or Periodical, Process of appointment of agency, fee, etc         |
| 15     | Penalties                           | Late payment and Non-conformance penalty   |
| 16     | Incentives on collection of arrears | What incentive should the franchisee be entitled for collecting arrears of the Utility's period. |
| 17     | Termination of Contract             | Grounds, whose authority, settlement of account, etc   |

***Besides views were also taken on the need and the approach for Regulatory Interface both at pre-franchising and post franchising stages.***

# Stakeholders Present at the Workshop

| S. No | Regulatory Commissions |
|-------|------------------------|
| 1     | MPERC                  |
| 2     | UERC                   |
| 3     | HERC                   |

| S. No | Utilities                    |
|-------|------------------------------|
| 1     | MSEDCL                       |
| 2     | M.P.P.K.V.V. Co. Ltd, Indore |
| 3     | UPCL                         |
| 4     | UPPCL                        |
| 5     | DHBNL                        |
| 6     | JVN                          |

| S. No | Other Organizations |
|-------|---------------------|
| 1     | CEA                 |
| 2     | PFC                 |
| 3     | Prayas              |

| S. No | Prospective Franchisees |
|-------|-------------------------|
| 1     | Torrent                 |
| 2     | NDPL                    |
| 3     | Reliance Energy         |
| 4     | GTL                     |
| 5     | A2Z                     |

# Key Recommendations

## Franchisee Area

- To begin with, input energy of at least 2000 Million Units (MUs) per annum or more than 500 MW Load or more than 3 Lac Consumers. The Distribution Losses should be at least 20%.
- Subsequently, the utility may franchise other compact areas which have input energy of at least 400 MUs and Distribution Losses higher than 20%.
- If the franchised areas are at a distribution loss level of less than 20%, the objective of distribution franchising should be to increase customer satisfaction by reducing load shedding and improving reliability of supply and for that purpose sourcing medium or long term power to meet the deficit of energy in the franchised area, if any.

# Key Recommendations

## Contract Period

- Contract Period should ideally be 15 years.
- Areas with more than 20% losses and expected to come down at loss level less than 20% can be considered for 20 year contract period
- Areas with distribution losses less than 20% where there could be a need to enter into long term power procurement agreements to meet the deficit of energy, the contract period should be 20 years



# Key Recommendations

## Pre-Qualification Criteria

- Public Limited company
- Should meet the conditions of Code of Conduct for grant of Distribution Business License under Section 14 of the Electricity Act, 2003
- Net Worth - Equivalent to 50% of the Annual Revenue of the Franchise Area
- Internal Resource Generation i.e. Cash Accruals – 25% of the Annual Revenue

# Key Recommendations

## Consortium

- Since the Pre Qualification Criteria does not require any technical qualification criteria to be satisfied by a bidder, consortium bidding is not required

# Key Recommendations

## PQR Evaluation

- There is no need for the scoring mechanism that has been followed by various utilities in the past. Accordingly, any bidder qualifying the Pre Qualification Criteria prescribed above should be eligible for Financial Bid Opening

# Key Recommendations

## Information in the Bidding Document & Baseline Parameters

- At least 5 years commercial data along with the technical and infrastructure details.
- The utility should get a Third Party Audit of its commercial data of at least last one year including Input Energy, Energy Sales, Amount Billed and Collected, Distribution Losses and AT&C Losses.
- With the audited baseline data being available, the Average Billing Rate (net of Subsidy) for the Base Year should also be frozen.
- In order to avoid post-tender negotiation on important clauses of Franchise arrangement, the Franchise Agreement should be made a part of the tender document.

# Key Recommendations

## Bid Variable

- The Bid Variable should be based on the combined input rate for HT & LT Consumers
- There should be no Minimum Benchmark rates since this would require making assumption regarding the business model of the franchisee which may not be true and could create ambiguity in the process
- CAGR of energy sales for past 5 years may be applied to compute the energy sales of the first 5 years of the contract period and, for the remaining years of the contract, at half the CAGR rate. The projected energy input to take into account the projected T&D loss reduction trajectory

# Key Recommendations

## **Bid Variable – Contd..**

- The discounting rate to be same as specified by CERC for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees
- The selection should be based on a comparison of the Present Value of the revenue payout by each bidder during the contract period.

# Key Recommendations

## Loss Reduction Targets & Penalty for Non - Achievement

- Loss reduction trajectory should be mentioned in the bid documents.
- Loss reduction trajectory shall require mandatory approval from the concerned State Electricity Regulatory Commission (SERC) with following as the guiding principle :
  - If distribution losses are higher than 25% - reduction by 5% per annum till 25% loss level is achieved.
  - If distribution losses are up to or less than 25% - reduction by 3% per annum till 19% loss level is achieved
  - If distribution losses are up to or less than 19% - reduction by 2% per annum till 15% loss level is achieved

# Key Recommendations

## Loss Reduction Targets & Penalty for Non – Achievement – Contd..

- The targets will change from one slab to another on shifting of the distribution losses from one slab to another.

No Penalty is proposed for non-achievement of Loss Reduction Trajectory since it is assumed that the bidder would have already factored in the same in the quoted input rate.

However the performance guarantee of the franchisee shall be liable to be invoked in case the franchisee fails to bring down the losses to 20% in the initial 10 years



# Key Recommendations

## Treatment of Taxes and Duties

- The input rates quoted by the Franchisee should be exclusive of the Electricity Duty (ED), Tax on Sale of Electricity (ToSE), Municipal Taxes (MT) and any other taxes/levies/duties that may be levied by the State Government but asks the utility to collect on its behalf.
- In such a case, the Franchisee shall pass on the taxes/duties/levies to the Utility on collection basis.
- Any new ruling from the State or Central Government on Taxation or introduction of new tax shall be borne by the franchisee (in case of Direct Tax) or utility (in case of Indirect Tax) as the case may be

# Key Recommendations

## Non- Performance Penalties

**Bid Bond** – Rs.10 Cr for every 250 Cr of annual revenue

**Performance Guarantee** –  $1/5^{\text{th}}$  of annual revenue out of which half shall be locked throughout the contract period whereas the other half shall be returned in proportion to the minimum mandatory investment done by the franchisee over the first 5 years.

The portion of the Performance Guarantee that is not returned shall be liable to be invoked either in case of non-compliance of Standards of Performance or failure to bring down the distribution losses to 20% in the initial 10 years.

# Key Recommendations

## Non- Performance Penalties – Contd..

**Payment Security** – LC equivalent to 60 days of average energy input in the franchise area. In case of non-adherence of the supply code/standards of performance, any penalty levied by the SERC on the utility shall be recoverable from the franchisee on a back to back basis. Accordingly, the franchisee shall have to be authorized to represent any such case before the SERC.

# Key Recommendations

## Treatment of Subsidies

- Input Rate to be quoted by the bidders should be exclusive of Subsidy.
- Subsidy received from the Government should be retained by the Utility.

# Key Recommendations

## Capital Investment

- Minimum Capital Expenditure as equivalent to 50% of Total Revenue Billed for the Base Year spread over first 5 years of the contract period (at least 10% each year)
- The investments to be made by the franchisee in the last 5 years of the contract period would require prior approval from SERC except the following investments
  - For release of any new consumer connections
  - For network up gradation to meet normal load growth
- To compensate the franchisee at the end of the contract period, the average rate of depreciation for the purpose of computing the depreciated cost of the investments made by the franchisee shall be taken as 8% per annum or as approved by the SERC

# Key Recommendations

## Supply of Energy & Procurement of Deficit Energy

- The Utility should not differentiate between similar areas in the State as regards the supply of energy.
- However, if the hours of supply depends on loss level of that area, that policy may continue so that in the event of reduction of losses in the franchise area, it may get comparatively higher quantum of energy to meet the consumers' demand.
- The licensee, upon being requested by the franchisee, shall procure the energy that is in deficit from the open market, for the franchisee area.

# Key Recommendations

## Supply of Energy & Procurement of Deficit Energy – Contd..

- In order to fully recover the cost of energy to meet such deficit, the franchisee may charge the consumers in the form of a Reliability Charge per unit and such charge could be decided through public hearing process and prior approval of the SERC.

Utility would have to enter into Power Purchase Agreements (PPAs) with contracted parties for power purchase. Utility can explore the option of entering into tri-partite PPAs with Franchisee as one of the Parties to the PPA.

# Key Recommendations

## Tariff Sharing

- The Utility and the franchisee should share, in the ratio of 75:25, any increase in revenue due to increase in Average Billing Rate on account of change in tariff or consumer mix (i.e. Average Billing Rate of the current period minus Average Billing Rate of the Base Year).

Franchisee may be allowed to retain 25% of the increased revenue on such account as part of the risk mitigation, since increased billing shall also mean increased bad debts and so on.



# Key Recommendations

## Tariff Sharing – Contd..

- Any decrease in revenue due to decrease in Average Billing Rate on account of change in tariff or consumer mix (i.e. Average Billing Rate of the current period minus Average Billing Rate of the Base Year) to be fully absorbed by the Utility.

Any decrease in ABR from the base year ABR should be absorbed by the Utility since the entire business model of the franchisee is based on the base year ABR and any decrease from the base year ABR not absorbed by the Utility shall result into high financial loss to the franchisee

# Key Recommendations

## Incentives on Arrears

- 10% incentive in case of connected consumers
- 20% incentive in case of disconnected consumers

# Key Recommendations

## Billing and Payment Mechanism

- Billing for energy supply by the utility to and payment from franchisee to the utility on monthly basis.
- Utility may make provision for Incentive on early payment

# Key Recommendations

## Treatment of Employees

- Utility employees should provide handholding support to the franchisee for the first 3 months .
- Cost of salary & allowances payable to the Utility employees involved therein payable by the franchisee.
- Thereafter, the Franchisee shall have an option to take Utility employees on deputation for 5 years.

# Key Recommendations

## Handing Over of Office and Other Assets

- Offices and Assets including land earmarked for substations, customer care centre, stores and workshops dedicated for the franchise area shall be handed over to the franchisee without any rent.
- Upon any asset being removed for replacement by the franchisee's asset or declared unserviceable, the scrap should be given back to the Utility.

# Key Recommendations

## Audits and Inspection

- Following Parameters should be considered for audit and inspection :
  - Average billing rate for the various consumer categories on quarterly basis
  - Energy input and category-wise and sub-category wise amount collected for each year including AT&C losses on annual basis
  - Revenue collected, ED and taxes collected from each category of the consumers on quarterly basis
  - Tariff sharing computations carried out by the Discom to arrive at the revenue for input energy for the invoices raised on the Franchisee on quarterly basis
  - Audit of the asset register on quarterly basis
  - Audit of opening level of arrears and thereafter on quarterly basis
  - Audit of opening level of inventories and thereafter on quarterly basis

# Key Recommendations

## Regulatory Interface

- Any deviation from the standard bidding document shall require prior approval of SERC
- Mandatory approval of T&D Loss Reduction Trajectory from SERC
- Approval of Investments planned in the last 5 years of the contract
- Fixation of Reliability charges to be recovered from the consumers for procurement of extra energy to maintain continuous supply.

Thank You

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