

Forum of Regulators (FOR)
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No.15/9(1)/2011/APTEL-TA/FOR/CERC

July 10, 2013

Chief Secretary
Government of Nagaland
Nagaland Civil Secretariat
Kohima – 797 004

Subject: Compliance of direction of Hon'ble APTEL in OP No. 1 of 2011

Sir,

I am directed to inform you that FoR Secretariat has submitted report dated 15th April, 2013 to the Hon'ble Appellate Tribunal of Electricity (APTEL) in compliance of its order dated 15th February, 2013 in O.P. No.1 of 2011 wherein the Hon'ble Tribunal directed all the State Electricity Regulatory Commissions (SERCs) and Joint Electricity Regulatory Commissions (JERCs) to furnish requisite information to FoR Secretariat. Based on this report, the Hon'ble Tribunal has issued further directions vide order dated 31st May, 2013 (copy enclosed). The paras relevant to the Government of Nagaland are reproduced for your kind reference.

" 9. We also find that no input has been received from Nagaland Commission presumably because the sole member/chairperson of the said Commission demitted office on 31.12.2012 after completion of his tenure which vacancy arose as per the scheduled date of superannuation. But, the State Government has failed to take appropriate steps to ensure timely appointment of the chairperson and member/s to the State Commission in accordance with Section 82(5) and 85 of the Electricity Act, 2003.

10. It is a very sorry state of affairs to note the statutory timelines are not being adhered to with diligence and that institutional vacuum is created bringing the regulatory processes to a grinding halt.

11. We deem it appropriate to bring this sad feature to the attention of the Secretary, Union Ministry of Power and the Chief Secretary, State Government of Nagaland with direction that they should take suitable and time bound action. The Registry is directed to forward the copy of this order to those officers as well as to the Forum of Regulators so that further action would be taken to cure the situation."

It is, therefore, requested that the appropriate action may please taken in this regard.

Yours faithfully,

Encl. as above.

(Chandra Prakash)
Deputy Chief (Engg.)

Summary Statement of responses received from the Regulatory Commissions on the directions issued by Hon'ble APTEL in order dated 31st May, 2013 in OP No. 1 of 2011

1. Direction at Para 11:

"11. We deem it appropriate to bring this sad feature to the attention of the Secretary, Union Ministry of Power and the Chief Secretary, State Government of Nagaland with direction that they should take suitable and time bound action. The Registry is directed to forward the copy of this order to those officers as well as to the Forum of Regulators so that further action would be taken to cure the situation."

- 1.1 Response:** Forum of Regulators (FoR) Secretariat wrote to Govt. of Nagaland requesting for taking suitable action for the appointment of the Chairperson of the Nagaland Commission. A copy of the letter is placed at **Annexure-A**.

2. Direction at Para 12 and Para 14:

"12. This Tribunal had directed all State Electricity Regulatory Commissions who have not framed the MYT Regulations in accordance with Section 61 of the Act to do so forthwith so that the same can be implemented with effect from 01.04.2014, and to report compliance. In this behalf, the Commission-wise status emerging from the filings of the FoR is set out below:-

- (a) Only two Regulatory Commissions seem to have responded. The Report is silent about the filings and compliance status by the other State and Joint Commissions.*
- (b) The Joint Commission for Goa and the Union Territories have merely stated that at their nascent stage and with absence of adequate data, the Joint Commission "is to process framing of MYT Regulations". The submission does not give the actual status of
 - (i) The steps taken so far in formulating and notifying the Draft MYT Regulations for public consultation.*
 - (ii) The proposed time table for finalizing and notifying the MYT Regulations as also its proposed effective date.*
 - (iii) Taking steps to ensure that the utilities concerned are geared to prepare their regulatory filings consistent with the MYT Regulations so that the same are made effective from 01.04.2014.**
- (c) Uttar Pradesh Commission has submitted that in terms of Regulation 2(1) of the Tariff Regulations, 2006, the Commission has to initiate benchmarking studies. No further status update has been provided regarding the issues.
 - (i) Whether benchmarking studies have been initiated pursuant to the said Regulations dated 06.10.2006?*
 - (ii) What was the outcome of such studies?*
 - (iii) What is the status of implementation of the MYT framework and control period for the same?**

14. In this view of the matter, we hereby deem it fit to direct that the Joint Commission for Goa and the Union Territories, and the Uttar Pradesh Commission shall comply with the directions of establishing/notifying the MYT Regulations forthwith and shall tender a specific and clear status update with respect to the shortcomings listed above within 4 weeks of receipt of Order of this Tribunal."

2.1 The responses received from the Regulatory Commissions are presented below:

(i) Joint Electricity Regulatory Commission (Goa & UTs): The roadmap for formalization and implementation of MYT from 1.4.2014 is as follows:

Particulars	Actual date/Target
Draft MYT uploaded on JERC website	18.06.2013
Comments of the stakeholders invited till	22.07.2013
Public hearing to be held	First/ second week of August, 2013
Finalization of MYT	20.08.2013
Notification	20.09.2013

(ii) Uttar Pradesh Commission:

(a) The benchmarking studies have not been initiated but the following directions have been issued in the Tariff Order dated 31st May, 2013 to the licensees to conduct the same:

“13. The Commission directs the Licensee to submit a long term business plan in accordance with Clause 2.1.7 of the Distribution Tariff Regulations.

*The Licensee in such business plan shall identify capex projects for the ensuing year and subsequent four years and submit detailed capital investment plan along with a financing plan for undertaking the identified projects in order to meet the requirement of load growth, refurbishment and replacement of equipment, reduction in distribution losses, improvement of voltage profile, improvement in quality of supply, system reliability, metering, communication and computerization, etc. – **Within 3 Months.***

*14. The Commission directs the Licensee to conduct benchmarking studies to determine the desired performance standards in accordance with Clause 2.1.8 of the Distribution Tariff Regulations. – **Within 3 Months.***

15. The Commission directs the Licensee to conduct proper loss estimate studies for assessment of technical and commercial losses under its supervision so that the Commission may set the base line losses in accordance with Clause 3.2.3 and Clause 3.2.4 of the Distribution Tariff Regulations and submit the report to the Commission.

*The study shall segregate voltage-wise distribution losses into technical loss (i.e. Ohmic/ Core loss in the lines, substations and equipment) and commercial loss (i.e. unaccounted energy due to metering inaccuracies/inadequacies, pilferage of energy, improper billing, no billing, unrealized revenues etc.)– **Within 3 Months.**”*

The Draft MYT Regulations for Distribution & Transmission are being finalized, after which the same will be put up for comments from stakeholders and public at large.

(b) At present there is only one Member in the Commission which comprises of one Chairman and two Members. The draft regulations will be ready by 30th of June, 2013 and will be ready to be put up before the full Commission.

The licensees have been issued various directions in the recent so that they may gear up/ prepare for the MYT Regime to be put in place by 1st April, 2014.

- (c) The Commission proceeded Sou-motu in determination of the ARR and Tariff for FY 2013-14 of the state owned distribution companies (i.e. MVVNL, PVVNL, DVVNL, PuVVNL & KESCO) and the transmission company (i.e. UPPTCL) and issued Tariff Orders on 31st May, 2013.

In the TO of FY 2013-14 of UPPTCL, True up of FY 2008-09, FY 2009-10 & FY 2010-11 has also been done as per directions of Hon'ble APTEL (Judgment dated 9th April, 2013 in Appeal No. 242 of 2012). The Commission has also conducted True Up for FY 2000-01 to FY 2007-08 and issued the Order on 21st May, 2013.

The distribution licensees have submitted the True Up Petitions for FY 2008-09, FY 2009-10 and FY 2010-11, which will be processed as soon as there is full Commission. It is pertinent to note that timely true up is being done for the only private distribution company in the State i.e., NPCL, Greater Noida.

3. Direction at Para 13:

*"13. All other State Commissions are directed to inform as to **whether the MYT Regulations have been framed or not**. In case MYT Regulations have not been framed so far, the Commissions are directed to frame the MYT Regulations without any further delay so as to make them operational from 1.4.2014."*

3.1 The replies received from SERCs/ JERCs are summarized in the following table:

S. No.	SERCs/ JERCs	MYT Implemented	Remarks
1.	Andhra Pradesh	Yes	APERC (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 published in Gazette on 14.11.2005]; and APERC (Terms and Condition for Determination of Transmission Tariff), Regulation, 2005 were published in Andhra Pradesh Gazette on 30.11.2005. MYT regime commenced with effect from FY 2006-07. Presently, the second Control Period FY 2009-10 to FY 2013-14 is under implementation.
2.	Arunachal Pradesh	No	MYT Regulations have not yet been framed. However, the Commission is serious about it and shall frame the same in near future keeping in view the time schedule fixed by the Hon'ble APTEL for its implementation.
3.	Assam	Yes	The Commission has been issuing MYT orders since FY 2010-11 based on the AERC Tariff Regulations, 2006. However, the process is on for framing new MYT Regulations incorporating the operational and financial parameters under the present MYT regime. The Commission is making all out efforts to make these Regulations operational from 1.04.2014.
4.	Bihar	Yes	The Commission has notified BERC (Terms and Condition for determination of Tariff) Regulations, 2007 wherein Terms and Conditions for determination of Multi Year Tariff (MYT) have been specified. Accordingly, the Commission has issued MYT for control period FY 2013-14 to FY 2015-16 vide its order dated 15.03.2013.

5.	Chhattisgarh	Yes	The Commission has notified “MYT Regulations 2012” on 6/10/2012 for the control period FY 2013-14 to FY 2015-16 and accordingly determined the ARR and retail tariff for FY 2013-14.
6.	Delhi	Yes	The Commission has issued first MYT order in 2007-08 to 2010-11 which was extended to one more year i.e. 2011-12. The second MYT Order was issued during 2012-13 which is applicable till 2014-15
7.	Gujarat	Yes	The Commission had notified GERC (Terms and Conditions of Tariff) Regulations, 2005 and GERC (Multi Year Tariff Framework) Regulations, 2007, for the control period FY 2008-09 to FY 2010-11. The Commission notified GERC (Multi-Year Tariff) Regulations, 2011 on 22 nd March, 2011, and is operative from FY 2011-12 to FY 2015-16.
8.	Haryana	Yes	The Commission has notified HERC (Terms and Conditions for Determination of Tariff for Generation, Transmission, Wheeling and Distribution & Retail Supply under Multi Year Tariff Framework) Regulations, 2012 on 5 th December, 2012. The first control period is FY 2014-15 to FY 2016-17.
9.	Himachal Pradesh	Yes	The Commission had framed the MYT Regulations in the year 2007 for the 1 st Control Period (FY09 to FY11) and for the 2 nd Control Period (FY12 to FY14), the MYT Regulations were framed in the year 2011.
10.	Jharkhand	Yes	The Commission has issued the procedures regarding filing of MYT Petition for the FY 2012-13 to 2015-16 in respect of Generation, Transmission and Distribution. Further, the petitions for approval of the business plan and issuance of tariff for the first control period FY 2013-14 to 2015-2016 of the distribution companies and APR of generators for the FY 2013-14 have been received in the Commission.
11.	Manipur & Mizoram	No	Draft MYT Regulations have been prepared and it is being finalized.
12.	Goa & UTs	No	Reply given in Para 2.1 (i) above.
13.	Karnataka	Yes	The Commission has issued MYT Regulations both for distribution and transmission vide KERC (Terms and Condition for Determination of Tariff for Distribution Retail Sale of Electricity) Regulations 2006 and KERC (Terms and Condition for Determination of Transmission Tariff) dated 31 st May 2006.
14.	Kerala	Yes	<i>The Commission has specified regulations for MYT in distribution in the year 2006.</i> However, unbundling and corporatization of the State Electricity Board (SEB) has not been completed yet. The Government has vested the assets and liabilities of the Board on 25-9-2008, but re-vesting has still not taken place. The Government vide Order No.(Ms)No.30 /2013/PD dated 28-6-2013 has extended the time limit for re-vesting the assets and

			liabilities of erstwhile KSEB to the fully owned Government Company viz., Kerala State Electricity Board Limited till 31-8-2013. Hence there is uncertainty about the structure of the unbundled entities. <i>Hence the regulation could not be enforced.</i>
15.	Madhya Pradesh	Yes	The MYT regulations with regard to determination of tariff (Generation, Transmission and Distribution Tariff) have been in existence since FY 2006-07. The latest MYT regulations have been issued in 2012 for the control period FY 2013-14 to 2015-16 for Generation, Transmission and Distribution.
16.	Maharashtra		Reply not received.
17.	Meghalaya	No	The Commission has framed the draft MYT Regulation which has uploaded in its website requesting comments from stakeholders and utility. MeECL has requested for more time to submit their comments. Thereafter, Commission shall direct MeECL to file MYT Petition by November 2013.
18.	Odisha	Yes	OERC (Terms and Condition of Determination of Tariff) Regulations, 2004 and Regulation 60 (2) of the OERC (Conduct of Business) Regulation, 2004 have provisions for MYT. The first MYT Order [called Long Term Tariff Strategy (LTTS) Order] for a control period of 5 years had been issued on 18.06.2003. The second MYT Order (FY 2008-2013) and third MYT Order (FY 2013-2018) have been issued on 28.02.2011 and 20.03.2013 respectively. The Commission has not framed any specific Regulation for MYT. However, <i>MYT guidelines have been issued under Orders time to time for different control periods.</i>
19.	Nagaland		Reply not received.
20.	Punjab	No	The comments on the Draft MYT Regulations have been received from the general public and stakeholders. Now <i>the MYT Regulations are under process for finalization and notification.</i> The erstwhile Punjab State Electricity Board was to be unbundled by the State Govt. vide notification dated 16.4.2010, into two companies, POWERCOM (Punjab State Power Corporation Limited (PSPCL) to carry out the Generation, Distribution & Trading of electricity functions and TRANSCO (Punjab State Transmission Corporation Limited (PSTCL)) to carry out the Transmission and State Load Despatch Centre functions. The State Govt. vide Notification dated 24.12.2012 has further amended the Transfer Scheme 2010 and has fixed the aggregate value of assets pertaining to PSPCL and PSTCL as on the date of unbundling i.e. 16.4.2010. The un-bundled companies could not get the audit of accounts carried out for FY 2010-11 and FY 2011-12 earlier in the absence of

			<p>fixation of aggregate value of assets to the PSPCL and PSTCL. The audit of accounts exercise for these years has been initiated by the unbundled companies i.e. PSPCL and PSTCL.</p> <p>In the absence of audited figures, PSERC is not in a position to fix the base line values for various financial and technical parameters, which are required for determining the tariff under MYT Regulations.</p> <p>It is submitted that in the absence of audited figures, PSERC could not carry out the true up for FY 2010-11 and FY 2011-12 in the Tariff Orders for FY 2012-13 and 2013-14, respectively. Further, as per Tariff Regulations, the Licensees are required to file their ARR and Tariff petitions for FY 2014-15, by 30th November, 2013. It is apprehended that the Licensees may not be able to submit the audited accounts for FY 2010-11, FY 2011-12 and FY 2012-13, before filling the Tariff Petition. Accordingly PSERC may not be in a position to implement MYT Regulations from 1.4.2014.</p>
21.	Rajasthan	Yes	The Commission has framed the MYT Regulations for control period FY 2009-10 to FY 2013-14 on 23.01.2009 and the Commission is also in the process of initiating draft MYT Regulations for the next control period FY 2014-15 to FY 2018-19.
22.	Sikkim	No	<p>The exercise for formulation of the draft MYT regulations is in progress and will be finalized for formal notification in the State Government Gazette at the earliest.</p> <p>State Energy & Power Department (DISCOM) has been appropriately sensitized on the regulatory directives as mandated under the Electricity Act. However, it is deemed pertinent to submit that in order to ensure proper observance of the regulatory prescriptions, the need for overhauling the conventional data management system which is presently in place with the Department, is most imperative. There are apprehensions that these impediments during the transitory process might lead to some inevitable delay, cannot be ruled out. Nevertheless, appropriate remedial measures will be taken in this regard.</p>
23.	Tamil Nadu	Yes	The Commission has notified the MYT Regulations on 11/3/2009 and the same is operational.
24.	Tripura	No	The Commission has framed MYT Regulations and sent to Dept. of Power, Govt. of Tripura vide communication dated 26.2.2013 for Gazette Notification by the Govt. but it is yet to be published by the Govt. of Tripura.
25.	Uttarakhand	Yes	The Commission has framed the MYT Regulation, 2011 on 19.12.2011, and the same are in force w.e.f. 01.04.2013. The Commission has issued the Order on

			MYT Petition and Business Plan for the first control period FY 2013-14 to FY 2015-16 on 06.05.2013.
26.	Uttar Pradesh	No	Reply at Para 2.1 (ii) (b) above.
27.	West Bengal	Yes	This Commission first framed WBSERC (Terms and Conditions of Tariff) Regulations, 2007 in February 2007 incorporating MYT framework. Currently, WBSERC (Terms and Conditions of Tariff) Regulations, 2011 is in force.

4. Direction at Para 17 and Para 18:

"17. In view of the above position, we direct the State Commissions for Gujarat, Karnataka, Goa and Union Territories, to submit specific and issue-wise status within 4 weeks of receipt of the order of this Tribunal. We notice with some concern that 7 State Commissions have resorted to justifications for non-compliance/delays which are in the teeth of specific directions contained in paragraph 65 of the judgment dated 11.11.2011 delivered in O.P. No.1 of 2011 reported as 2011 ELR APTEL 1742.

18. In this regard, the Secretary of Forum of Regulators is directed to take up the implications of the directions issued, undertake a detailed discussion and dissemination exercise amongst the various Appropriate Commissions to enable them to appreciate the directions and findings contained in the judgement disposing O.P. No.1 of 2011 reported as 2011 ELR APTEL 1742, and help them to develop methodologies and techniques in order to comply with the directions. Suffice it to state here that the difficulties pointed out by the State Commissions for Manipur and Mizoram and Uttar Pradesh are not justifiable."

4.1 The responses received from the Regulatory Commissions are presented below:

- (i) **Chhattisgarh Commission:** In respect of Chhattisgarh State Power Distribution Company (CSPDCL) and Bhilai Steel Plant (SAIL), the Commission initiated suo-motu petition on 23/01/2013 and 18/02/2013 respectively for determination of ARR and retail tariff for FY 13-14. Since M/s Jindal Steel and Power Limited (JSPL) filed petition on 17/12/12, which was within time limit specified by APTEL in its order passed in petition OP 01 of 2011, hence, no suo-motu initiatives had been taken in respect of M/s JSPL.
- (ii) **Gujarat Commission:** In the Order dated 15/02/2013, Hon'ble APTEL had not sought to explain reasons for delay in filing of Tariff petitions for FY 2012-13 by the utilities. Also, it was not asked to submit the details for action taken by the Commission for delay in filing the petitions. Vide Order dated 31/05/2013, Hon'ble APTEL have sought the above mentioned details, which is submitted below:

S. No.	Name of Utility	Reasons put forward by utilities for delay in the filing of Tariff petitions for FY 2012-13	Action taken by the Gujarat Commission
1.	Dakshin Gujarat Vij Company Ltd. (DGVCL) Madhya Gujarat Vij	• Difficulties regarding non-availability of revenue data until November 2011 due to implementation of the revised and restructured tariffs announced vide Tariff Orders issued by the Commission on 06.09.2011.	• Considering the genuine apprehension of the utilities, the Commission granted the time limit extension for filing the tariff partition up to 31.01.2012. • Discoms failed to file the petition even after the expiry of the time extension granted. Consequently, the Commission initiated a suo-motu

	<p>Company Ltd. (MGVCL)</p> <p>Paschim Gujarat Vij Company Ltd. (PGVCL)</p> <p>Uttar Gujarat Vij Company Ltd. (UGVCL)</p>	<ul style="list-style-type: none"> • Finalization of petition after getting revenue data according to the revised tariff schedule and thereafter getting approval from the Board of Directors of Company and consultation with Government for subsidy commitment took time. • Showing the above reasons, the utilities asked for time limit extension for filing the tariff petition up to 29.02.2012. • Difficulties regarding non-availability of revenue data till November 2011 due to implementation of revised and restructured tariffs. 	<p>proceeding for determination of tariff and informed the Discoms about the same vide letter dated 23.02.2012</p> <ul style="list-style-type: none"> • The Commission has disallowed the revenue gap arising out of late implementation of revised tariff for the respective years while issuing the order for true up of FY 2011-12 and the tariff of FY 2013-14. On the similar line, while truing up for FY 2012-13, the Commission shall disallow the gap resulting due to late implementation revised tariff i.e. implementation of tariff for FY 2012-13 from 02.06.2012 instead of 01.04.2012.
2.	<p>Torrent Power Ltd. Distribution (Ahmedabad)</p> <p>Torrent power Ltd. Distribution (Surat)</p> <p>Torrent Power Ltd. Generation (TPL-G (APP))</p>	<ul style="list-style-type: none"> • Difficulties regarding non-availability of revenue data till November, 2011 due to implementation of revised and restructured tariffs. 	<ul style="list-style-type: none"> • The utility filed its petitions after a delay of 11 days. The Commission condoned the delay and registered the petitions. • The Commission has disallowed the revenue gap arising out of late implementation of revised tariff for the respective years while issuing the order for true up of FY 2011-12 and the tariff of FY 2013-14. On the similar line, while truing up for FY 2012-13, the Commission shall disallow the gap resulting due to late implementation revised tariff i.e. implementation of tariff for FY 2012-13 from 02.06.2012 instead of 01.04.2012.
3.	Torrent Energy Ltd. (TEL)	<ul style="list-style-type: none"> • Preparation of the petition took time because of the complexities of the issues involved and their implications on the business. 	<ul style="list-style-type: none"> • The time limit for filing the tariff partition was extended up to 27.02.2012. TEL filed petition on 07.03.2012 and same was registered by the Commission on 10.04.2012.
4.	MPSEZ Utilities Private Limited (MUPL)	Petition was filed on time.	-
5.	Kandla port Trust (KPT)	<ul style="list-style-type: none"> • KPT is new to regulatory regime. It was under process of data collection. The state of infrastructure was at a nascent level. 	<ul style="list-style-type: none"> • KPT filed the petition after a delay of 30 days. Considering the genuineness of the reasons put forward by KPT, the Commission condoned the delay and registered the petition.

6.	Aspen Infrastructures Limited (AIL), formerly SECL	<ul style="list-style-type: none"> • AIL is new to regulatory regime. It needed to study the provisions of the tariff filing and required more time. • Due to economic slowdown it is finding difficulties in making projections for the control period. 	<ul style="list-style-type: none"> • The Commission had directed AIL to file the MYT petition and Business Plan by 31.07.2012. • AIL filed its petition after a delay of 7 days. Considering the genuineness of the reasons put forward by AIL, the Commission condoned the delay and registered the petition.
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(iii) **Haryana Commission:** The power utilities have filed the tariff petitions for FY 2012-13 in timely manner. Hence, there was no need for the Commission to initiate suo-motu action.

(iv) **Joint Electricity Regulatory Commission (Goa & UTs):**

Sl. No.	JERC Jurisdiction	ARR filing for 2012-13 issued on	Tariff Order for FY 2012-13 issued on
A.	Daman and Diu	30.11.2011	25.08.2012
B.	Dadra and Nagar Haveli	30.11.2011	31.07.2012
C.	Puducherry	21.12.2011	12.06.2012
D.	Goa	31.12.2011	27.06.2012
E.	Chandigarh	30.12.2011	07.05.2012
F.	Lakshadweep	01.08.2012	31.10.2012
G.	Andaman and Nicobar Island	29.11.2011	04.06.2012

The reasons for delay in issuance of tariff order for FY 2012-13 are submitted as under:

A. Daman & Diu: The hearing was conducted earlier on 15th and 17th May, 2012. Consequent upon Hon'ble APTEL order dated 25.05.2012 in Appeal No. 35/2012, the hearing was again conducted on 17th August, 2012 at Diu and 21st August, 2012 at Daman for redetermination of Tariff for FY 2011-12, which delayed the issuance of tariff order.

The gist of the Judgment given by APTEL in the appeals are given below:

(a) Appeal No. 169 of 2011: Judgment dated February 29, 2012 of Hon'ble APTEL; Summarised Findings:

"The formula of FPPCA specified by JERC in the impugned order was set aside as it was inconsistent with the conditions specified herein & the Tariff Regulations"

(b) Appeal No. 35 of 2012:- Disposed of vide Judgment dated May 25, 2012. The Hon'ble APTEL through the above judgments has

- Remanded back the impugned Order for FY 2011-12 with the direction to re-determine the tariff for domestic and agriculture categories.
- Directed the Commission to decide the PPCA for FY 2011-12 and consequential modification in retail supply tariff after hearing the concerned parties and specify the correct formula for future.
- Directed the Commission to consider the issue of shifting of the existing consumers to higher voltage after hearing all the concerned parties and after considering the cost benefit analysis of such transfer.

- Suggested that the Joint Commission may reconsider the provision of the bad debts after the audited accounts are submitted by the Appellant in the True up.

B. Dadra& Nagar Haveli: The hearing on the tariff petition of Electricity Department, DNH which was earlier scheduled on 17.01.2012 was re fixed on 02.05.2012 in view of APTEL's order dated in respect of Appeal No. 32/2011 on FPPCA and its consequential impact on Tariff for FY 2012-13. Further, the data asked for Technical validation during 02.06.2012 was received in piece meal, the last information was received on 13.07.2012, which delayed release of Tariff Order for FY 2012-13.

Directions issued by Hon'ble APTEL in judgment in the matter of Appeal No. 159 of 2011, Appeal No. 175 of 2011 & I.A. No. 263 of 2011, Appeal No. 19 of 2012 & IA No. 33 & 34 have been complied by the Commission:

(a) Appeal No. 159 of 2011: Disposed of vide Judgment dated February 28, 2012

"Remanded back the impugned Tariff Order with the direction to redetermine the tariff for all the categories."

(b) Appeal No. 175 of 2011 & I.A. No. 263 of 2011: Disposed of vide Judgment dated March 14, 2012.

"The Joint Commission is directed to re-determine the formula taking into account the Regulations and the conditions specified under PPCA formula. Further. the State Commission may decide the PPCA for the FY 2011-12 and consequent modification in retail supply tariff after hearing the concerned parties and our directions for specifying the correct formula may be noted for future."

(c) Appeal No. 19 of 2012 & I.A, No. 33 & 34 of 2012: Disposed of vide Judgment dated March 15, 2012.

"The issue in this appeal has already been covered and decided in the Judgment in Appeal Nos. 15V of 2011 dated 28.02.2012 and 175 of 2011 dated 14.03.2012, whereby the impugned order has been set aside and the Appeals were allowed."

Thus, the Hon'ble APTEL through above judgments had remanded back the impugned Order for FY 2011-12 with the direction to re-determine the tariff for all the categories and also directed the Commission to decide the PPCA for FY 2011-12 and consequential modification in retail supply tariff after hearing the concerned parties and specify the correct formula for future.

C. Puducherry: Data asked for during Technical Validation session held was received in piecemeal, the information received was not complete in all respects and Commission has to follow up on regular basis for receiving accurate data, which delayed release of Tariff Order for FY 2012-13.

D. Goa: Electricity Department (ED), Goa filed its first ARR and Tariff Petition for FY 2011-12 on 14th July 2011. Subsequent to filing, a technical validation session was held on 19th September 2011 during which, the Commission directed ED to take into account changes in tariff for CGS and transmission charges. The Petitioner filed the revised petition on 21st October 2011 which was admitted on 1st November 2011. The Public hearing scheduled on 5th January 2012 could not be held due to the enforcement of the Model Code of Conduct on account of the Assembly Election in the State of Goa.

ED, Goa submitted the ARR petition for FY 2012-13 on 31st December 2011. The Commission scheduled a combined hearing for Tariff and ARR Petitions on 12th March 2012. The Commission vide its order dated 12th March 2012 directed the Petitioner to file the Tariff Proposal by 9th April 2012.

The petitioner submitted combined ARR and Tariff proposal for FY 2011-12 and FY 2012-13 on 5th April 2012. The petitions were admitted on 13th April, 2012 and Tariff order was issued on 23rd June, 2012.

The delay in issuance of order has been taken note of and in future Commission will try its level best to issue the order within the stipulated period of 120 days.

E. Chandigarh and Andaman & Nicobar Islands: Electricity Department, Chandigarh filed its 2nd ARR petition on 30.12.2011. Likewise, Electricity Department, Andaman & Nicobar filed their 2nd ARR petition on 21.11.2011. Both the departments were in the nascent stage of Regulatory framework compliance. It was with much pursuance and handholding by the Commission that they could file tariff petition. It may further kindly be taken note of that Commission is constrained with skeleton staff, non-filing of deputation posts and very limited resources. However, with the gradual development of expertise and resources within the Commission, all the Tariff Order of FY 2013-14 were issued within 120 days time limit.

F. Lakshadweep: Electricity Department, Lakshadweep filed petition in this Commission seeking exemption under Proviso 8 of Section 14 of Electricity Act, 2003 from filing ARR tariff petition. In this connection many hearings were held. However, subsequently they themselves filed a petition on 01.08.2013. This led to delay in filing of ARR tariff petition by the Department. However on receipt of ARR petition the Commission promptly conducted Public Hearings, carried out due diligence and issued the Tariff Order within 92 days on 31.10.2012.

(v) Karnataka Commission: The Commission vide letter dated 24.11.2011 called upon all the distribution licensees to file tariff applications on or before 30.11.2011. In response, Bangalore Electricity Supply Company Ltd. (BESCOM) and Chamundeshwari Electricity Supply Corporation (CESC) filed their APR for FY 12 and ARR for FY 13 on 30.11.2011, 02.12.2011 and 03.12.2011 respectively.

Further, Hubli Electricity Supply Company Ltd., sought time to file its ARR/ Tariff revision application for FY 13 on 09.12.2011. CESC sought time to file its Tariff revision application for FY 13 on 03.12.2011.

The applications filed by BESCOM, HESCOM and CESC were scrutinized by the Commission and found that APR for FY 12 and modified ARR for FY 13 have been filed without indicating any revision of Retail Supply Tariff. Therefore, the Commission on 2nd January, 2012 directed all the distribution licensees to resubmit their ERC, ARR, Tariff applications and half yearly accounts along with projections for the balance period of FY 12 as per Tariff Regulations.

All the distribution licensees filed their revised ARR/ Tariff Applications on 27.01.2012. These applications were accepted for further consideration on 22.02.2012 and licensees were directed to publish the summary of their applications in the Newspapers, inviting comments/ objections from the stakeholders. Thereafter, the Commission held public hearing on all the applications of the distribution licensees on various dates as recorded in the respective orders and received comments/views. Thereafter thoroughly examining

each of the applications of the distribution licensees, the Commission passed the final Tariff Orders on 30.04.2012

It is, therefore, submitted that since the distribution licensees had filed their applications required to be filed under the Tariff Regulations as directed by this Commission on 24.11.2011, ***there was no occasion to initiate suo motu action for revision of Tariff.***

- (vi) **Meghalaya Commission:** Truing up from 2009-10 onwards is pending because of time sought by the utility in view of the Supreme Court Order.
- (vii) **Odisha Commission:** There has been no such occasion for undertaking suo motu action by the Commission in this regard.
- (viii) **Sikkim Commission:** True up exercise in respect to the Tariff Order for 2012-13 will be taken up in the year 2014-15. And for this the utility will be required to submit petition for truing up and certified audited accounts for the year 2012-13 along with the Tariff Petition for 2014-15. Necessary direction has been already issued to the utility in this regard.

5. Direction at Para 19:

"19. This Tribunal had directed the Electricity Regulatory Commissions of Delhi, Uttar Pradesh, West Bengal and Punjab to explain as to why they could not pass the tariff order within 120 days of the submission of complete ARR and Tariff Petitions. In this behalf, the Commission-wise status emerging from the filings of the FoR is set out below:- (a) Delhi Regulatory Commission submitted that they received the MYT Petition from the utilities only in the months of January and February 2012 which were admitted subject to clarifications/additional information. Hence, they completed the tariff determination process between 125 to 140 days. (b) Punjab Regulatory Commission submitted that: (i) Petition was filed by PSPCL on 30.11.2011 whereupon views of State Government were sought. (ii) State Government's views were received only on 13.06.2012. (iii) After determining the tariff the Commission again sought views of the State Government regarding subsidy, which was received on 11.07.2012. (iv) Tariff Order was issued on 16.07.2012. (c) Uttar Pradesh Regulatory Commission submitted that: (i) Petitions were admitted on 25.06.2012.

(ii) In terms of Regulation 2.3.1 of the UPERC Distribution Tariff Regulations, 2006, the period of 120 days as provided in Section 64(3) of the Electricity Act, 2003 will be counted from the date of acceptance of ARR. Hence, the Tariff Orders were to be issued by 23.10.2012 and they were issued on 19.10.2012. (d) West Bengal Regulatory Commission submitted that: (i) The Commission was in the process of amending the WBERC (Terms and Conditions Tariff) Regulations, 2011 which took appreciable time. (ii) The MYT Order for the 3rd control period FY 2011-12 to 2013-14 was taken up post amendment to the Tariff Regulations. (iii) MYT Order on the ARR and Tariff petitions for FY 2011-12 and 2012-13 have been issued, and the MYT petitions for FY 2011-12 to 2013-14 have been accepted."

5.1 The responses received from the Regulatory Commissions are presented below:

- (i) **Chhattisgarh Commission:** None of the three distribution licensees i.e. Chhattisgarh State Power Distribution Company (CSPDCL, State Discom), Bhilai Steel Plant (SAIL) and M/s Jindal Steel and Power Limited (JSPL) had filed the petitions by 30th Nov 2012 for True up of FY 2011-12, APR of FY 2012-13 and ARR of FY 2013-14.

- (a) In respect of CSPDCL, the Commission could not issue the tariff order within 120 days of registering the suo motu petition because of non-submission of data in time and voluminous work involved in the present order. The Commission has carried out trueing up for FY2005-06 to FY 2011-12.
- (b) In respect of JSPL, the Commission could not issue the tariff order within 120 days of registering the petition because petitioner has not submitted data in time.
- (c) Tariff order in respect of suo motu petition registered for retail tariff for BSP (SAIL) could not been issued till date because of non-availability adequate sufficient information
- (ii) **Haryana Commission:** The Commission has passed the tariff order within 120 days of the submission of complete ARR and tariff petitions for FY 2012-13 in accordance with Section 64 (3) of the Electricity Act, 2003.
- (iii) **Odisha Commission:** All the DISCOMs have been filing the ARR and tariff applications annually on or before 30th November as per Regulation 5(i)(a) of OERC (Terms and Conditions for Determination of Tariff) Regulation, 2004. The Commission have been issuing Tariff Order in less than 120 days from the date of application as prescribed under 64 (3) of Electricity Act, 2003. The information for last two years have been given below:
- | Year | DISCOMs | Dale of Filling of Tariff | Date of Issue of Order |
|---------|---------|---------------------------|------------------------|
| 2012-13 | ALL | 30.11.2011 | 23.03.2012 |
| 2013-14 | ALL | 30.11.2012 | 20.03.2013 |
- (iv) **Uttar Pradesh Commission:** It has been submitted that the TOs for FY 2012-13 were issued after 116 days, which is within the stipulated 120 days.

6. Observation/ direction at Para 21:

"21. This Tribunal had directed the Electricity Regulatory Commissions of Delhi, Punjab, Rajasthan, Uttar Pradesh and West Bengal to explain why they have not issued trueing-up order for FY 2010-11. In this behalf, the Commission-wise status emerging from the filings of the FoR is set out below:-

(a) Delhi Commission has clarified that the true-up for FY 2010-11 was filed along with the MYT petition for FY 2012-13 to 2014-15, and that the true up order was issued along with the ARR Order.

(b) Punjab Commission has stated that due to the Transfer Scheme dated 16.04.201 for unbundling PSEB and hence the opening balance sheets of the successor companies being provisional at the time of issue of the tariff order for FY 2012-13, true-up for FY 2010-11 can be undertaken once the balance sheets are final and audited.

(c) Rajasthan Commission has clarified that: (i) It had in terms of its orders dated 08.09.2011 and 08.08.2012 asked the Discoms to get their accounts finalized and submitted alongwith the next APR/tariff petition. (ii) The Discoms did not submit their APR/True-up proposals for FY 2010-11 alongwith the tariff petition for FY 2012-13 (iii) Audited accounts were communicated to Commission on 18.03.2012 which in turn has directed the Discoms to file petitions for true-up of ARR for FY 2010-11 and 2011-12 latest by 15.04.2013 failing which it shall determine the true-up suo-moto and initiate punitive action under section 142.

(d) Uttar Pradesh Commission has clarified that: (i) The state owned licensees had not submitted their audited accounts hence true up could not be done for FY 2010-11. (ii)

Presently, for FY 2000-01 to 2007-08 is being carried out pursuant directions dated 15.10.201 by this Tribunal. (iii) State Discoms are shortly going to file true-up petitions for FY 2008-09 and 2009-10.

(e) West Bengal Commission has clarified that: (i) The Commission was in the process of amending the WBERC (Terms and Conditions Tariff) Regulations, 2011 which took appreciable time. (ii) After amending the Regulations in August 2012, it has processed the and true-up petitions for FY 2010-11 and issued the order."

6.1 The responses received from the Regulatory Commissions are presented below:

- (i) Odisha Commission:** The Truing up exercise for the four distribution utilities i.e. NESCO, WESCO, SOUTHCO and CESU have been made up to 2011-12 based on the latest available audited accounts of those DISCOMs with the Commission. For the last time this exercise has been carried out along with approval of ARR and Tariff for 2013-14. Previously this exercise has been carried out on year to year basis for the past several years.
- (ii) Uttar Pradesh Commission:** The distribution licensees have submitted the True Up Petitions for FY 2008-09, FY 2009-10 and FY 2010-11, which will be processed as soon as there is full Commission. The Commission has also conducted True Up for FY 2000-01 to FY 2007-08 and issued the Order on 21st May, 2013. The distribution licensees have submitted the True up Petitions for FY 2008-09, FY 2009-10 and FY 2010-11, which will be processed as soon as there is full Commission.

7. Direction at Para 23 :

"23. This Tribunal had directed the Regulatory Commissions of Gujarat, Karnataka, Kerala, Meghalaya, Tripura, West Bengal; the Joint Commission for Goa and Union Territories and the Joint Commission for Manipur and Mizoram to furnish the actual date of issuing the true-up order for FY 2010-11 and filing of ARR and Tariff petitions for FY 2013-14 and issue of tariff orders for FY 2013-14. All State Commissions were to submit compliance report in this behalf."

7.1 The responses received from the Regulatory Commissions are presented below:

- (i) Andhra Pradesh Commission:** As per MYT Regulations, true-up petition have to be filed by the Licensees at the end of the control period. Since FY 2010-11 falls in second control period of five years from FY 2009-10 to FY 2013-14, filings are expected in the calendar year of 2014.

ARR Filings and Tariff Petitions have been filed by the Distribution Licensees for FY 2013-14, on 5th January 2013. Retail Supply Tariff Order has been issued by the Commission for FY 2013-14 on 30th March, 2013.

- (ii) Bihar Commission:** True up petition for FY 2011-12, Annual Performance Review (APR) for FY 2012-13 and MYT ARR and Tariff Petition for FY 2013-14 petition was filed by Bihar State Power (Holding) Company Ltd. on 15.11.2012 and the Commission issued order on 15.03.2013.
- (iii) Delhi Commission:** Date of issue of True-Up Order for FY 2010-11 was 13.7.2012 for BRPL, BYPL, TPDDL and NDMC. Date of filing of ARR and Tariff Petitions for FY 2013-14 was 10.12.2012 for BRPL, BYPL & TPDDL and 31.1.2013 for NDMC.

The True-up petition for FY 2011-12 and ARR Petition for FY 2013-14 are currently being examined in the Commission and the Tariff Order for 2013-14 is likely to be issued shortly.

- (iv) **Gujarat Commission:** The Discom-wise details of date of filing of petitions for True up for 2011-12 and Tariff Order for 2013-14 are as under:

DISCOMs	Date of filing	Date of Tariff Order
DGVCL, MGVCL, PGVCL, UGVCL	28.01.2013	16.04.2013
Torrent Power Ltd.- Distribution (Ahmedabad), Torrent Power Ltd.- Distribution (Surat), and Torrent Power Ltd.-Generation (APP)	18.01.2013	16.04.2013
Torrent Energy Limited (TEL)	21.01.2013	27.05.2013
MPSEZ Utilities Private Limited (MUPL)	12.12.2012	20.05.2013
Kandla Port Trust (KPT)	21.01.2013	20.05.2013
Aspen Infrastructures Limited (AIL)	02.01.2013	08.05.2013

- (a) **DGVCL/ MGVCL/ PGVCL/ UGVCL:** The time limit for filing the tariff petition was extended up to 10.01.2013. Discoms did not file even after the expiry of the time extension granted by the Commission. Consequently, the Commission initiated a suo-motu proceeding and directed Managing Directors of the Discoms during hearing on 18.01.2013 to file petitions within 10 days.
- (b) **TPL Distribution (Ahmedabad & Surat):** The time limit for filing the tariff petition was extended up to 31.12.2012. TPL filed its petitions on 31.12.2012 and the same were registered by the Commission on 01.01.2013.
- (c) **Torrent Energy Limited (TEL):** The time limit for filing the tariff partition was extended up to 10.01.2013. TEL filed its petition on 16.01.2013 and same was registered by the Commission on 21.01.2013.
- (d) **Kandla Port Trust (KPT):** The time limit for filing the tariff partition was extended up to 20.12.2012. KPT filed the petition on 10.01.2013 and same was registered by the Commission on 21.01.2013.
- (e) **Aspen Infrastructures Limited (AIL):** The time limit for filing the tariff partition was extended up to 26.12.2012. AIL filed its petition on 27.12.2012 and the same was registered by the Commission on 02.01.2013.

The Discom-wise details of the date of issuance of Order for Truing up for 2010-11 and Determination of Tariff for 2012-13:

Name of DISCOM (s)	Date of Order
DGVCL, MGVCL, PGVCL, UGVCL	02.06.2012
TPL – D (A), TPL – D (S)	02.06.2012
TEL	21.08.2012

- (v) **Joint Electricity Regulatory Commission (Goa & UTs):**

JERC Jurisdiction	Date of filing of ARR for 2013-14	Date of issue of Tariff Order for FY 2013-14	Date of issue of True up order for FY 2010-11
Goa	31.01.2013	31.03.2013	Not done as First time ARR petition filed in FY 2011-12

Chandigarh	15.02.2013	15.04.2013	Not done as First time ARR petition filed in FY 2011-12
Dadra and Nagar Haveli	30.11.2013	25.03.2013	Provisional true up on 31 st July 2013
Daman and Diu	26.11.2013	22.03.2013	Provisional true upon 25 th Aug 2011
Puducherry	15.01.2013	10.04.2013	10.04.2013
Andaman and Nicobar Island	29.11.2013	31.03.2013	Not done as 1 st time ARR petition was filed in FY 2012-13
Lakshadweep	09.04.2013	22.05.2013	Not done as 1 st time ARR petition was filed in FY 2012-13

- (vi) **Joint Electricity Regulatory Commission (Manipur & Mizoram):** As per the JERC for Manipur & Mizoram (Terms and Condition for determination of Tariff) Regulations, 2010, 'Truing- Up' is to be done based on the audited accounts of the tariff year. As the Electricity Department, Manipur and the Power & Electricity Department, Mizoram could not furnish audited accounts for the last 3 (three) years, truing up were not possible. However, the Commission undertook a review for the FY 2010-11 along with the Tariff Orders for FY 2012-13.

Receipts of the ARR and Tariff Petition for the FY 2013-14 were acknowledged to the Electricity Department, Manipur and the Power & Electricity Department, Mizoram on 12.04.2013. Considering the repetitive very late filing of ARR and Tariff Petition without audited accounts, which violates the provisions of Regulations and Tariff Policy, is no longer desirable and hence, the Commission decided not to issue new Tariff Orders for FY 2013-14 for both the States by making Orders.

- (vii) **Karnataka Commission:** True up order For the Year 2010-11 was issued on 28.10.2011. Filing of ARR and tariff petition for the year 2013-14 was 10.12.2012.

The tariff orders for the year 2013-14 were scheduled to be issued on 28th march, 2013. However, pronouncement of the orders was deferred on request of the Election Commission of India on 28.03.2013 due to State Assembly elections. After the clearance from the Election Commission of India, the Tariff Orders were actually pronounced on 06.05.2013.

- (viii) **Kerala Commission:** The actual date of issue of True-Up Order for FY 2010-11 was 30.10.2012; Date of filing of ARR and Tariff Petitions for FY 2013-14 was 3.1.2013 and date of issue of Tariff Order for FY 2013-14 was 30.04.2013.

- (ix) **Madhya Pradesh Commission:** Discoms have filed petitions for true-up of their ARRs for FY 2008-09, FY2009-10, FY2010-11 and FY 2011-12. These petitions have been scrutinized and the deficiencies and shortcomings in the petitions have been informed to Discoms through formal orders of the Commission. As per the requirement, the Discoms are filing additional information and/or revised petitions. Further, MPERC is also in process of engaging consultants so as to expedite the exercise. The truing up of ARRs for FY2008-09, FY2009-10, FY2010-11 and FY2011-12 is under process.

The Discoms had sought extension up to 31/12/2012 for the filing of ARR/ Tariff Petition for FY 2013-14, which was allowed by the Commission. Subsequently, the Tariff Order for 2013-14 was issued on 23.03.2013.

- (x) **Meghalaya Commission:** Truing up from 2009-10 onwards is pending because of time sought by the utility in view of the Supreme Court Order.
- (xi) **Punjab Commission:** The Commission has noted the directions given by the Hon'ble Tribunal. The Commission submits that once the balance sheets of the Utilities are finalized and audited accounts are submitted by them along with ARR Application and Tariff Petition for 2014-15, true up for FY 2010-11 shall be carried out by this Commission alongwith Tariff order for FY 2014-15.
- (xii) **Rajasthan Commission:** In compliance of directions of RERC, all Discoms have now filed requisite true up petitions for FY 2010-11 and 2011-12. The tariff order for FY 2013-14 has already been issued by the Commission on 6th June 2013.
- (xiii) **Sikkim Commission:** The Tariff Order for 2013-14 was issued on 30.03.2013.
- (xiv) **Tamil Nadu Commission:** As per Regulation 5 & 6 (1) of the Tariff Regulations, 2005, the licensees were to file the tariff petitions on or before 30th November of each year. As the petitions were not filed in time, the Commission had written to the licensee on 8/1/2013, 21/1/2013 and 8/2/2013 to file the tariff petition. In response, the licensees filed the tariff petition on 19-02-2013 and the Commission issued the Tariff Order for FY 2013-14 on 20-06-2013 within the stipulated 120 days time.
- (xv) **Tripura Commission:** The Commission had issued true up order for FY 2010-11 alongwith Tariff Order for 2012-13 on 28.03.2013. The licensee, Tripura State Electricity Corporation Limited (TSECL) had filed ARR and Tariff Petition for 2013-14 on 15.03.2013 and accordingly, Tariff Order was issued on 25.06.2013.
- (xvi) **West Bengal Commission:** Truing up of past expenses is done in APR order. The date of APR order in respect of different utilities under this Commission for the year 2010-11 are as under:

Sl. No.	Utilities	APR Order
1	WBSEDCL	19.10.2012
2	CESC Ltd.	19.03.2013
3	DPSCCL	26.03.2013
4	DPL	24.08.2012
5	WBSETCL	19.10.2012

Separate filing of ARR and Tariff Petition for the year 2013-14 (3rd ensuing year of the 3rd control period) is not required under MYT. All the utilities filed their composite application for determination of Tariff for all the years 2011-12, 2012-13 and 2013-14 under 3rd control period. The Commission has already passed the orders determining the ARR for all the three years 2011-12, 2012-13 and 2013-14 and Tariff for 2011-12 and 2012-13 for all the utilities. The Tariff orders for 2013-14 are under process.

The date of Tariff filing and orders passed by the Commission determining the ARR for 2011-12, 2012-13 and 2013-14 subject to adjustment, if any, in respect of APR and FPPCA/FCA for previous years for different utilities are given below:

Sl. No.	Utilities	ARR Petition for 2011-12, 2012-13 and 2013-14	ARR Order
1	WBSEDCL	30.03.2012	01.12.2012
2	CESC Ltd.	14.07.2011	01.12.2012
3	DPSCCL	15.07.2011	14.02.2013
4	DPL	14.07.2011	17.12.2012

5	WBSETCL	15.07.2011	01.12.2012
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Tariff Orders for 2013-14 for the utilities under jurisdiction of this Commission is under process of finalization.
