

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**OP No. 1 of 2011**

**Dated : 30<sup>th</sup> June, 2014**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson  
Hon'ble Mr. Rakesh Nath, Technical Member  
Hon'ble Mr. Justice Surendra Kumar, Judicial Member**

**Tariff Revision  
(Suo-Motu action on the letter  
Received from Ministry of Power)**

**Counsel for the Amicus Curiae(s) :Mr. Amit Kapur, Amicus  
Curiae  
Mr. M.G Ramachandran,  
Amicus Curiae  
Mr. R K Mehta,  
Amicus Curiae,  
Mr. Buddy A Ranganadhan,  
Amicus Curiae**

**Counsel for the Commissions: Mr. Aditya Pyasi,  
Forum of Regulators (FOR)  
Mr. Sakesh Kumar for PSERC  
Mr. Anish Garg (Rep. for JERC,  
Goa & UTs)  
Mr. G. Umapathy for TNERC  
Mr. Arijut Maitra for MERC with  
Mr. Palaniappan**

**Mr. Sugam Seth  
Mr. Sanjay Verma,  
Director(Tariff) &  
Mr. Rajesh Monga, Law Officer  
for HERC  
Mr. V.G. Pandit, Director(Tariff),  
KERC  
Dr. Rama Rao  
Mr. C.K. Rai for RERC  
Mr. P.Dave, Jt. Secy.(Law) for  
RERC  
Ms. Surbhi Sharma for MPERC**

**ORDER**

This Tribunal in its order dated 11.11.2011 had given certain directions to the State Commissions regarding timely determination of tariff for the ensuing financial year, review of ARR and true up as per the time schedule specified in the Regulations, creation of regulatory assets, and devising of appropriate mechanism for fuel and power purchase cost adjustment.

2. The State Commissions were directed to follow these directions scrupulously and to send periodical report by 1<sup>st</sup> June of the relevant financial year about the compliance of these directions to the Secretary, Forum of Regulators, who in turn will send the status report to this Tribunal and also place it on its website.
  
3. Accordingly, the Tribunal has been receiving the reports through Forum of Regulators and has been giving directions to the State Commissions from time to time.
  
4. The last order was passed on 2.12.2013. Subsequently hearings were held on 6.1.2014 and 10.2.2014, in which the Secretary, Forum of Regulators submitted a compliance report.
  
5. We have heard Learned Amicus Curiae Counsel on the Report submitted by the Forum of Regulators.

6. After considering the Report of the Forum of Regulators and the submissions made by the Learned Amicus Curiae Counsel we give the following directions to the State and Joint Commissions.

i) Andhra Pradesh Commission:

There is no reference in the report submitted by the Commission to the compliance with directions of the Tribunal for amendment of the Conduct of Business Regulations to the effect that if there is only one Member of the Commission available, the quorum of the proceedings also shall be one. The Commission is directed to take necessary action in the matter and report compliance.

ii) Chhattisgarh:

The response of the Commission indicated that suo motu proceedings were initiated in July 2012

for tariff determination for FY 2013-14 but till February 2014 the tariff order was not passed. For Bhilai Steel Plant it has been indicated that no tariff order has been passed since the licensee had given an undertaking that any gap found in determination would be absorbed by the licensee. However, this could not be the reason for not determining the ARR and pass tariff order in time. We, therefore, direct the State Commission to comply with the timeframe indicated in the order dated 11.11.2011 in future. Position regarding tariff order for FY 2014-15 for CSPDCL and Bhilai Steel Plant shall also be furnished.

iii) Joint Commission (Manipur and Mizoram):

It was informed that the MYT Regulations have been revised for final publication. The position regarding notification of the MYT Regulations may

be furnished. The Commission is also directed to timely determine the tariffs and carry out APR and True up as per the main order dated 11.11.2011.

iv) Jharkhand:

The draft amendment of Conduct of Business Regulations providing for quorum of 1 Member refers to quorum of 1 Member only for adjudicating proceedings of the Commission. The quorum should be fixed for all proceedings of the Commission whether they pertain to adjudicatory, tariff or regulatory or legislative matters. The Commission shall submit a report in the matter.

v) Punjab:

The Commission shall furnish status of notification of the MYT Regulations.

vi) Madhya Pradesh:

The Commission may indicate the status regarding true up of FY 2008-09 to FY 2011-12.

vii) Meghalaya:

The Commission may indicate the position regarding true up of accounts for FY 2009-10 onwards. The Commission shall also indicate the position regarding notification of the MYT Regulations.

viii) Tamil Nadu:

The Commission has already initiated the proceedings for amendment of Conduct of Business Regulations regarding quorum of one Member. The Commission may indicate the status.

ix) Uttar Pradesh:

The Commission to indicate the status regarding amendment of Conduct of Business Regulations regarding quorum.

x) West Bengal:

It was reported that the Commission had determined the ARR for FY 2013-14 for different utilities but tariff order had been issued on 26.12.2013. The Commission is directed to comply with the timelines given in order dated 11.11.2011 in future.

7. We also direct all the State Commissions and Joint Commissions to furnish the following details to the Secretary, Forum of Regulators within 30 days of the receipt of this order.

- i) Date of issue of tariff order for FY 2014-15 for the distribution licensees. If the tariff order for FY 2014-15 has not been issued, the reason for delay and the present status.
- ii) Year upto which truing up of accounts has been completed and orders issued.
- iii) Whether Fuel and Power Purchase Adjustment mechanism for at least quarterly adjustment as directed in order dated 11.11.2011 is in place?
- iv) Whether any new Regulatory Assets have been created in the tariff order for FY 2014-15? If the answer is yes, then give details.

8. The Secretary, Forum of Regulators shall furnish a consolidated report on the above directions by 11.08.2014.
  
9. The Registry is directed to send a copy of this order to all State Commissions, Joint Commissions and Secretary, Forum of Regulators and furnish the copy to Amicus Curiae Counsel also. A copy of the order may also be sent to Secretary (Power), Government of India.
  
10. Post the matter for passing further orders on **13.08.2014** before this Bench.

**(Justice Surendra Kumar)**  
Judicial Member

**(Rakesh Nath)**  
Technical Member

**(Justice M. Karpaga Vinayagam)**  
Chairperson

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