

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

OP-1/2011

Dated: 19th May, 2011

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam,
Chairperson

Hon'ble Mr. Rakesh Nath, Technical Member

Hon'ble Mr. V.J. Talwar, Technical Member

In the matter of:

Tariff Revision

**(Suo motu action on the letter received
From the Ministry of Power.**

**Counsel for the Appellant(s) : Mr. R.K. Mehta
Mr. Amit Kapur
Mr. M.K. Ramachandran
& Mr. Buddy A
Rangandhan
Amicus Curiae**

Order

On receipt of a letter dated 21.01.2011 from the Ministry of
Power, Government of India, this Tribunal took suo moto notice

and decided to treat the same as proceedings under Section 121 of the Electricity Act for the purpose of giving necessary directions to the State Commissions in their compliance of the provisions of the Act.

In pursuance of the same we had issued notices by the order dated 4.2.2011 to all the State Commissions and to the Forum Regulators requiring informations on various parameters referred to in the format attached to our order. Accordingly, all the State Commissions and Forum of Regulators have sent the information as required by this Tribunal.

We have perused the reports of the State Commissions as well as Forum of Regulators. We have requested Amicus Curiae counsel to go through those Reports and to make suitable suggestions to enable us to give appropriate directions to the Commissions under Section 121 of the Electricity Act. Accordingly, today they have submitted their memo giving their suggestions. We have also heard them.

On going through the reports and on considering the various suggestions made by the Amicus Curiae counsel, we notice that most of the State Commissions have been complying with the provisions of the Act. However, we have come across certain instances where the State Commissions have to do more to comply with the provisions of the Electricity Act.

On the basis of these instances we feel that the following issues have to be considered by this Tribunal. These issues are as follows:-

- a) Several State Commissions are leaving Regulatory gaps in tariff fixation i.e. the tariff fixed for a particular year is not sufficient to cover the ARR for that year;
- b) Such Regulatory Gaps are left as a matter of course and the gap is left to be filled up in the Truing up or in subsequent years;
- c) Delays in the tariff determination exercise;

- d) Truing up is not being carried on regularly and sometimes not even for several years at a time;
- e) Several Commissions have not framed regulations regarding Fuel Surcharge Adjustment Mechanism.
- f) Suo moto action to be taken for initiating appropriate proceedings for determination of ARR and tariff fixation in the absence of the applications to be filed by the utilities.

On these issues, we want to hear all the Commissions so that it would facilitate this Tribunal to pass suitable orders and to give guidelines for the future course of action on the basis of the views of the Commissions.

Therefore, we deem it appropriate to issue notices under Section 121 of the Electricity Act to all the State Commissions to get their views on these issues. Accordingly, the notices are issued to all the Commissions. They are directed to send their

views/reports on or before 30th June, 2011 to this Tribunal.

Copies of these notices be sent to the Forum of Regulators also.

After receipt of the copies of the reports from all the Commissions the Registry is directed to give copies of those reports/views regarding the issues referred to above to Amicus Curiae counsel. A full and complete soft copy of the information provided either on a CD or other similar electronic media must accompany the hard copy. Additionally, the full information provided must also be sent by email to opno1of2011@gmail.com.

The Commissions if they so desire can send their representatives or the counsel to make their suggestions to assist this Tribunal.

Post the matter for passing further order on **7th July, 2011**
at 2.30 p.m..

(V.J. Talwar)
Technical Member

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

ss/ks