

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION

SHIMLA

F.No.HPERC/381

Dated: Shimla, the 8th June ,2004

NOTIFICATION

The Himachal Pradesh Electricity Regulatory Commission, in exercise of the powers conferred by sub- section (1), and clause (zd) of sub-section (2), of section 181 of the Electricity Act, 2003(36 of 2003) and all other powers enabling it in this behalf, after previous publication, hereby makes the following regulations, namely :-

REGULATIONS

PART –I PRELIMINARY

1. Short title and commencement.– (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2004.

(2) These regulations shall come into force on the 10th day of June, 2004.

2. Scope and extent of application. – (1) These regulations shall apply where the capital cost based tariff is determined by the Commission.

(2) Where tariff has been determined through the process of bidding in accordance with the guidelines issued by the Central Government, the Commission shall adopt such tariff in accordance with the provisions of the Act.

(3) Where tariff has been determined bilaterally between the State Govt. and the generating company and the power purchase agreement has been approved by the Commission based upon such tariff, the Commission shall adopt such tariff together with the terms and conditions of such approved power purchase agreement.

3. Definitions. - In these regulations, unless the context otherwise requires, -

- (a) “Act” means the Electricity Act, 2003 (36 of 2003);
- (b) “Commission” means the Himachal Pradesh Electricity Regulatory Commission;
- (c) “Operation and Maintenance Expenses (or O & M Expenses) ” means the expenditure incurred in operation and maintenance of distribution system and includes expenditure on employees costs, administrative and general expenses, repairs and maintenance, spares, consumables, insurance and other overheads;
- (d) “regulations” means these regulations;
- (e) “State Government” means the State Government of Himachal Pradesh;
- (f) “surcharge” means the additional payment which the consumer, or category of consumers, pays for exercising option for open access to take supply from a person other than the incumbent distribution licensee.

- (g) other words and expressions used and not defined in these regulations, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

PART –II
GENERAL GUIDING FACTORS FOR DETERMINATION OF TARIFF

4. Determination of Tariff. -(1) The Commission shall, by an order, determine the tariff, under the Act, for –

- (a) supply of electricity by a generating company to a distribution licensee;
- (b) transmission of electricity;
- (c) wheeling of electricity;
- (d) retail sale of electricity.

(2) Tariff determined by the Commission and the directions given in the tariff order by the Commission shall be the quid pro quo and mutually inclusive. The tariff determined shall, within the period specified by it, be subject to the compliance of the directions to the satisfaction of the Commission and their non-compliance shall lead to such amendment, revocation, variations and alterations of the tariff, as may be ordered by the Commission.

(3) The tariff Order shall unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. In the event of failure on the part of the licensee to file the Aggregate Revenue Requirement (ARR) under regulation 7, the tariff determined by the Commission shall cease to operate, unless allowed to be continued for a further period with such variations, or modifications, as may be ordered by the Commission.

5. Guiding Factors for Determination of Tariff. - The Commission shall, while determining the tariff, keep in view the factors, namely :-

- (a) the principles that will –
 - (1) reward performance ;
 - (2) stress commercial aspects;
 - (3) encourage efficiency, economy, competition and reduction of losses and costs;
- (4) promote cogeneration and generation of electricity from renewable sources of energy;
- (b) the guidelines and the procedure, as may be laid down under sub-section (5) of section 62, for calculating the expected revenues from the tariff and charges and tariff filing;
- (c) multi year tariff principles;
- (d) broader tariff principles based upon performance based regulatory regime to improve efficiency of operations and ensure predictability in regulatory action;
- (e) safeguarding of consumer's interests;
- (f) recovery of cost of electricity in a reasonable manner ;
- (g) reduction and elimination of cross subsidies;
- (h) productivity of investments including the need to link tariff adjustments in the productivity of capital employed, manpower resources and improvements in efficiency of capital and resources;
- (i) the need to rationalize tariffs on the basis of bench-marked and performance based costs of generation, transmission and distribution .

6. Charging of permissible tariff. – (1) No generating company or licensee for transmission (intra- State transmission), distribution and supply of power shall, without the prior approval of the Commission, charge any tariff:

Provided that the existing tariff being charged by the licensees or generating companies shall continue to be charged, after the date of the commencement of these regulations, for such period as may be specified by a notification, without prejudice to the powers of the Commission to take up any matter relating to tariff falling within the ambit of regulation 4 of these regulations.

(2) The licensee or generating company shall not charge a tariff in excess of the tariff determined by the Commission and if any licensee or the generating company recovers a price or charge exceeding the tariff determined under these regulations, without prejudice to any other liability incurred by the licensee or the generating company, -

- (a) the excess amount shall be recoverable by the person who has paid such price or charge, along with interest equivalent to the bank rate ; and
- (b) the generating company or licensee, as the case may be, shall be liable to penalties as are prescribed under sections 142 and 146 of the Act.

PART-III

FILING OF AGGREGATE REVENUE REQUIREMENT

7. Filing of Aggregate Revenue Requirement. – (1) For the determination of tariff, each Generating Company or licensee shall, for the ensuing financial year, file, accompanied by such fees as may be determined by the regulation, the Aggregate Revenue Requirement (ARR) on or before the 30th November of each year in the format as may be laid down by the Commission, containing tariff proposals to deal with the gaps between the expected aggregate revenue at the then prevalent tariff and the expected cost of services including schemes for reduction in loss levels, other efficiency gains to be achieved, the revision in charges and the changes in tariff structure for different categories of consumers.

(2) The Commission, while determining the tariff applicable to generating companies and transmission licensees, shall be guided by the principles and methodologies specified by the Central Electricity Regulatory Commission and the terms and conditions of such tariff notified by the said Commission:

Provided that the Commission for the purpose of determination of tariff may, for sufficient reasons and after taking into consideration factors such as the efficiency of the company putting up the project, interest of the consumers and other factors, decide to differ from the approved capital expenditure:

Provided further that the Commission may, for sufficient reasons and after exercising due diligence and applying prudence check, deviate from the terms and conditions of the generation and transmission tariff notified by the Central Commission.

(3) If a licensee carries on more than one business, the statements referred to in sub-regulation (1) shall be given separately for each separate business of the licensee and in such manner in respect of each such business as the Commission may direct.

(4) The Aggregate Revenue Requirement (ARR) under sub-regulation (1) shall include -

- (a) Capital investments, financial costs and rate base;
- (b) Working capital; O&M expenditure, provision for bad debts, depreciation and distribution loss;
- (c) sale forecasts;
- (d) power purchases;
- (e) profit sharing;
- (f) regulatory asset;
- (g) the manner in which the gap, if any, between the charges permitted to be recovered and expected revenue calculated shall be bridged; and
- (h) such other information as the Commission may direct.

(5) The Licensee shall furnish to the Commission, such additional information, particulars and documents as the Commission may require from time to time after such filing of revenue calculations and tariff proposals.

(6) The Licensee shall publish for the information of the public, the contents of the application in an abridged form in such manner as the Commission may direct and shall provide copies of the application and documents filed with the Commission at a price not exceeding normal photocopying charges

(7) For the purpose of computation of revenue requirement, and also for setting the targets for each year under review, the Commission may, by order, broadly classify the costs incurred by the licensees as, -

- (a) controllable costs; and
- (b) non-controllable costs:

Provided that the controllable costs shall be classified by indexing to appropriate indices like the Consumer Price Index (CPI), the Wholesale Price Index (WPI) and the Prime Lending Rate (PLR) etc.:

Provided further that the optimally incurred non-controllable costs, subject to due diligence and prudence check by the Commission, may be treated as pass through.

(8) The Commission may, for the purpose of multi year tariff regime, require a long-term business plan from the licensee.

(9) Where the Commission is satisfied that the appointment of Consultant is essential in order to arrive at just and fair conclusion in any matter before it and so appoints consultant as per its "Appointment of Consultant Regulation", it may, require the generating company or licensee to pay for the same and the same shall be pass through in the Annual Revenue Requirement.

8. Capital investments.- (1) The licensees shall propose in their filings, a detailed capital investment plan, showing separately on going projects that will spill into the year under

review and new projects (alongwith their justification) that will commence but may be completed within or beyond the tariff period.

(2) The Commission may consider the licensee's investment plan for approval and for this purpose may require the licensees to provide relevant technical and commercial details. The costs corresponding to the approved investment plan of a licensee for a given year shall normally be considered for its revenue requirement.

(3) In presenting the justification for new projects, the licensees shall detail the specific nature of the works and outcomes sought to be achieved, and such details must be shown in the form of physical parameters, e.g. new capacity added, to be added, meters replaced, customer service centers set up etc., so that it is amenable for physical verification. In case of any significant shortfall in physical implementation, the Commission may require the licensees to explain the reasons, and may proportionately reduce the provision, including the interest and the return component, made towards revenue requirement, in the next period.

(4) To meet natural calamities involving substantial investments, the licensees may, any time during the tariff year, seek provision for additional capital expenditure and the Commission shall examine and review these provisions in the manner as given in sub-regulation(2) and approve their inclusion in revenue requirement in the next period.

9. Financing Costs.- (1) To take best advantage of market conditions, the licensee shall, while raising new finance, be free to finance through any proportion of debt and equity. For the past investment, actual values shall be considered. Depreciation reserves to the extent available shall be utilised for financing the investments:

Provided that the licensee will not earn return from the assets created through this depreciation reserve.

(2) The licensee shall indicate in its filing that the financing cost considered for revenue requirement matches with the approved investment plan, level of capital for the given year.

(3) For loans outstanding at the beginning of the year on the revenue account, the licensee shall indicate, in its filings, the expected interest outgo for each year, which will be considered towards revenue requirement of the licensee for such year and in case of declining interest rates, the licensee shall make efforts to reduce the cost of the outstanding loans.

(4) The Commission shall encourage raising loans from the consumers and for all loans, the permitted interest cost shall be linked to the Prime Lending Rate of a Scheduled Bank plus a predetermined margin which realistically reflects the rate at which licensee can raise debt from the market.

(5) The linkage of permitted interest cost with the Prime Lending Rate under sub-regulation (4) shall encourage the licensees to improve the credit rating and seek funds at lower cost, and the licensee shall retain the benefit of such savings till the next tariff review where actual values shall be considered as the base for subsequent years.

(6) For the Commission's approval the licensee may, in its filing, propose its choice of the Prime Lending Rate(PLR), reference (Indian Loans) and the margin keeping in view the suitability of the Prime Lending Rate (PLR) reference to its business, prevailing market conditions, the financial position etc.:

Provided that to ensure consistency, the Commission may use one single benchmark Prime Lending Rate (PLR), which may be of commonly acceptable bank.

10. Rate Base.- (1) For computing returns, the Commission may determine appropriate rate base either considering debt and equity separately or in conjunction and in doing so, factors which incentivise capital investment shall be adequately considered:

Provided that while giving return on the total capital employed the Commission may assess at regular intervals the Weighted Average Cost of Capital (WACC).

(2) In case foreign currency is bought as capital, the Commission may consider a separate rate of return and foreign exchange variation shall be allowed as a pass through to the consumers.

(3) The Commission may-

- (a) link the return on equity to the RBI Bank Rate plus a margin for the investment risk in the power sector;
- (b) allow a fixed rate of return on capital base, to be decided by it,
- (c) provide post tax returns and ensure that tax to the extent of tax on return is allowed as pass through to the consumers.

11. Working Capital. - The working capital requirement shall be worked out, basing upon a lead-lag study and such working capital requirement should move towards efficient levels for the subsequent years. Interest on working capital shall be as permitted by the Commission based on the market scenario.

12. O & M Expenditure. - The Commission may endeavour to fix operation and maintenance cost on normative basis and these shall be recognized at actual, or as may be allowed by the Commission, whichever is lower for the first period of review and shall be taken as base values and the approved base values may be indexed to pre-determined indices viz the Consumer Price Index, the Wholesale Price Index or a combination of both the indices for the subsequent years.

13. Provision for bad debts.- The Commission may, after the licensee gets the receivables audited, allow a provision for bad debts, as a percentage of sales revenue and as per prudent commercial practices, in the revenue requirement of the utility.

14. Depreciation.- (1) For the purpose of the tariff determination, the rate of depreciation shall be linked to the useful life of the asset:

Provided that the Commission may permit a higher rate of depreciation, in case of inadequacy of cash for debt repayment.

(2) In addition to allowable depreciation, the Commission may consider allowing advance against depreciation, if-

- (a) in any year, the advance against depreciation and depreciation together do not exceed 1/12th of the original loan amount; and
- (b) the total depreciation allowed during the life of the project shall not exceed 90% of the original project cost.

15. Distribution Loss.- (1) The Commission may either require the licensees to carry out proper loss estimation studies under its supervision, or initiate a study itself, to set a realistic base line of loss estimates at different voltage levels and in relation to different consumer categories.

(2) The Commission shall, on the basis of opening loss levels in licensee's filings, submissions and objections raised by the stake holders, approve a realistic and achievable loss target for the year under review and the approved loss target shall be used for computing power purchases/sale of power for that year.

(3) The licensee shall share part of the financial gains arising from achieving higher loss reduction vis-à-vis the target, with the consumers but the losses on account of under-achievement of loss reduction target shall be entirely borne by the licensee.

16. Sale Forecasts.- (1) The licensee shall forecast energy sales, demand forecast by customer and consumer category, the number of consumers and load profile for each customer category and for each slab, for the period under consideration and the Commission, before accepting and adopting it, shall examine the reasonableness, consistency of principles across all licensees, past trends etc.

(2). The Aggregate Revenue Requirement (ARR) to be filed under regulation 7 shall give:-

(a) basis of the forecast demand and the calculation of expected revenue aggregate that would result from the customer or consumer category wise forecast demand, referred to in sub-regulation (1), during the corresponding period under the currently approved tariff;

(b) the calculation of the licensee's estimated costs of providing the service required by the level of demand indicated in sub-regulation (1) for each category of consumers during the specified period calculated in accordance with the financial principles and their application contained in the Sixth Schedule to the Electricity (Supply) Act, 1948, as was in force before the repeal of the said Act by the Electricity Act, 2003, or such other principles the Commission may direct from time to time .

(3) The licensee shall develop a robust database of all consumers with desired particulars regarding their demand to facilitate the forecasting process in the future.

(4) The sales forecast shall be applied in estimating the revenue accruals.

17. Generating Companies and Captive Generating Stations.- As provided in subsection 3 (a) of section 10 of the Act, the generating companies and other persons who have established generating stations including captive generating stations in the State and persons who desire to establish such generating stations including captive generating stations shall furnish to the Commission the technical details of a generating station as per Appendix –1 within 30 (thirty) days of notification of these regulations or within 30 (thirty) days of the commencement of the generation of electricity at the station, whichever is later.

18. Power Procurement and Purchases. - (1) In accordance with the provisions of the Act and the conditions of licence every distribution licensee shall purchase or procure electricity required for the business of the distribution licensee in an economical and efficient manner and under a transparent power purchase and procurement process and generally based on the principles of least cost purchase.

(2) The power purchase by a distribution licensee may be classified by the Commission as short-term power purchase or long term power purchase on terms as may be decided by the Commission from time to time.

(3) The Commission may, from time to time, issue guidelines, practice directions and orders governing the short-term purchases and long-term purchases, which the distribution licensee can undertake for the purpose of the licensed business.

(4) (a) The distribution licensee shall satisfy the Commission that the need for additional power procurement is on account of events beyond the reasonable control of the licensee on a long term basis and in the case of short term power purchase, the circumstances, where such additional short term power purchase will become necessary.

(b) The distribution licensee shall not enter into a binding or enforceable contractual commitment till the Commission, by a general or special order, approves the procurement of electricity by the distribution licensee.

(5) Unless otherwise approved by the Commission by a general or special order, a long-term power purchase or procurement by the Distribution Licensee shall be done through a structured competitive procurement process approved by the Commission.

(6) (a) The Distribution Licensee shall satisfy the Commission that the Electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is of least cost or economical in the prevalent circumstances and that the distribution licensee has made prudent and best efforts to minimize the cost of purchase.

(b) The Commission may not permit any such short term or long term purchase if the manner proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reason the purchase is not economical or efficient.

(7) The Distribution Licensee shall forecast the demand for electricity for his business and formulate proposals in coordination with the generating companies, licensee companies,

other licensees, authorities and other concerned persons. The distribution licensee shall file with the Commission power procurement plan to meet the demand in such a manner as the Commission may direct.

(8) The distribution licensee shall file with the Commission, the details in regard to the distribution system under his control and arrangement available for the transmission in the State or outside the State to evacuate the electricity procured and distribute the same in accordance with the power procurement plan approved by the Commission.

(9) The details required to be given by the distribution licensee in regard to resource planning, power purchase and procurement planning, planning for transmission system and distribution system, competitive procurement process as well as all other matters relating to the purchase of energy by the licensee shall be as provided in the guidelines and practice directions issued by the Commission from time to time.

(10) The Commission shall take into consideration, while determining the tariffs of the distribution licensees as per this regulation, the approval granted by it to the distribution licensees for the power purchase and procurement process under this regulation and the action and inactions on the part of the distribution licensees in complying with the terms contained in this regulation.

(11) Quantity approved for power purchase may be the sum of targeted distribution loss and total forecast sales under regulation 16 and will be evaluated at the price based on the power purchase agreements, bulk supply agreements etc. consented by the Commission.

(12) The Commission shall not consider the power purchases beyond the approved level of power purchases. However, the licensee can procure additional power from any source:

Provided that if there is any variation in the actual purchase vis-à-vis the order of the Commission, the resultant financial gain or loss shall be adjusted in the next year's Aggregate Revenue Requirement (ARR):

Provided further that the licensee as per the profit sharing formula shall retain any gain made out of the additional power purchase and the loss on account of the additional power purchase shall not be passed on to the consumers:

Provided further that the licensee shall be allowed to retain incentive of over drawl of power under higher frequency and absorb the loss for over drawl of power under lower frequency regime.

(13) The Commission, based on merit order despatch, may lay down guidelines for direct procurement of power by the distribution licensees from generators/other sources in order to optimize the cost of power procured by licensees considering -

- (a) load profiles during various seasons;
- (b) technical constraints;
- (c) avoidable costs (whether from own generation or power purchase) calculated after giving due consideration to valid contractual obligations.

(14) The power purchase expenses as determined, after due consideration for contractual obligations and technical constraints, through the optimal merit order despatch, shall be considered for pass through in the Annual Revenue Requirement.

(15) In case of genuine short-term shortages, the licensee shall have the flexibility to procure power from alternative sources. The Commission may fix the maximum ceiling of tariff for purchase of electricity and the same shall be pass through in the revenue requirement for the subsequent tariff period.

(16) The fuel cost revision shall be automatic with the variation in fuel prices and shall include changes in fixed costs, variable costs and variations in mix of power purchases and the licensees shall be required to compute changes in the fuel costs, and appropriately claim or refund the same in tariff, on quarterly basis.

19. Power Purchase from Generator.- (1) The Commission may approve the tariff for the power purchase and procurement by the licensee from the generating company in accordance with regulation 18 and on such approval being given, the generating company shall be entitled to sell the energy to the licensee as per the tariff, terms and conditions contained in the power purchase agreement as approved by the Commission.

(2) The Commission may determine the tariff for the sale of energy from the generating station of a generating company and the generating company may thereafter enter into agreements for the sale of energy on the tariff determined by the Commission subject to the terms and conditions laid down by the Commission:.

Provided that the determination of the generation Tariff shall not entitle the generating company to sell energy to the licensees on a long term basis except in accordance with the power purchase agreement or procurement to be finalized by the licensee in accordance with regulation 18 and the terms and conditions which the Commission may lay down for the purpose from time to time.

Provided also that determination of the generation tariff shall not entitle the generating company to sell energy to the licensees on a short-term basis except in accordance with the sub-regulations 1 to 11 of regulation 18

20. Power Purchase from Trader.- (1) The Commission may approve the tariff for the power purchase and procurement by the licensee from the electricity trader in accordance with regulation 18 and on such approval being given, the electricity trader shall be entitled to sell the energy to the licensee as per the tariff, terms and conditions contained in the power purchase agreement as approved by the Commission.

(2) The Commission may from time to time, fix the trading margin of the electricity trader for trading in electricity in the State.

(3) Notwithstanding the determination of the trading margin for the electricity trader , it shall not entitle the licensees to purchase the electricity except as provided under regulation 18 and further such sale shall be subject to such further terms and conditions the Commission may lay down for the purpose from time to time.

21. Profit Sharing. - (1) In the beginning of the period under review, the licensee shall be provided with an approved reasonable return:

Provided that as the profitability of the licensee is neither guaranteed nor capped, the licensee may make more profits than the approved reasonable return.

- (2) In case of the profits beyond the approved reasonable return, the Commission shall treat-
- (i) one-third amount to be declared as dividends to the share holders. Where this amount is not paid out as dividend, it shall be treated as part of equity to that extent and earn returns on the same. Any future declaration of dividend from this shall lead to commensurate decrease in the equity base for the purpose of returns;
 - (ii) one-third amount to be returned back to consumers by way of reduction in the consumer bills as a rebate; and
 - (iii) one-third amount shall be kept as tariff balancing reserve, which shall be used to reduce sharp rise in the Aggregate Revenue Requirement(ARR) in future years:

Provided that the Commission may allow a part of the total reserve to be returned back to the consumers every 3 years by way of reduction in the Aggregate Revenue Requirement (ARR):

Provided further that the amount in tariff balancing reserve shall not be eligible to be treated as part of equity and would not earn any return for the shareholders and any return earned on this reserve shall be added back to this reserve.

22. Regulatory asset.- The Commission shall, at its discretion, provide for regulatory asset by specifying the amortisation and financing rules of the regulatory assets submitted by the licensee and accepted by the Commission:

Provided that the regulatory assets shall only be allowed to take care of force majeure or cost variations due to uncontrollable factors or major tariff shocks because of these reasons and not to avoid the progressive tariff increases.

PART-IV

BULK SUPPLY TARIFF AND DIFFERENTIATED GENERATION AND TRANSMISSION TARIFFS

23. Bulk Supply Tariff. - (1) The distribution licensees may buy power directly from a generating station. The Commission may adopt a differential bulk supply tariff mechanism to address the issues of uniform retail tariff and different level of cross-subsidies that exist on account of their consumer mix.

(2) The Commission shall, while designing the differential bulk supply tariff, ensure bulk supply tariff predictability, protect efficiency gains and lay down a clear formula for the calculation of bulk supply tariff.

24. Peak and Off-peak Tariff.- (1) The Commission shall encourage the distribution licensees to move towards separate peak and off-peak tariff in a time-bound manner and also

move towards time differentiated generation and transmission tariffs. To begin with, the Commission may look at “Time-of-the-day” tariff for large, medium and small industrial, commercial and water pumping consumers and gradually cover other major consumer classes in a time-bound manner.

(2) The Commission shall specify the broad classification of consumers and time frame for implementation of differentiated tariff and while specifying differentiated tariff, the Commission may also notify the period for peak, off-peak and normal consumption.

25. Power Factor and Load Factor Related Tariff.- (1) The Commission may provide rebates to the consumers for maintaining high power factor and load factor to promote efficiency of operation and optimum capacity utilization.

(2) The Commission may consider switching over to two-part kVA plus kVAh tariff from kWh tariff for consumers having appropriate meters to incentivise operation at better power factor and higher load factor

PART-V WHEELING

26. Wheeling. - (1) The licensees shall provide non-discriminatory open access to the consumers and within the period as may be specified by the Commission, for the purposes of wheeling tariff, the person utilizing wheeling services will be charged on both cash and kind basis.

(2) The wheeling charge in cash for a consumer category would be based on postage stamp method and include costs of distribution licensee for its ‘pure wires’ business. This cost shall be reduced by the proportion of the revenues derived from other business, if any, which would be specified by the Commission.

(3) The wheeling charge will be computed taking into account, projected units to be sold and wheeled through distribution licensee’s network in the ensuing tariff period.

(4) With regard to charges in kind, the normative distribution system technical losses shall be borne by the consumer in the case of wheeling transactions and would be based on the voltage levels.

PART –VI SUBSIDY

27. Subsidy from State Government. - (1) The State Government may, at any time as it considers to be appropriate, propose any subsidy to any class or classes of consumers in the tariff determined by the Commission and upon receiving such proposal, the Commission shall determine the amount to be paid as subsidy and the terms and conditions of such

payment including the manner of payment of subsidy amounts by the State Government to the person affected by the decision of the subsidy.

(2) While determining the tariff, the Commission shall take into account any subsidies, which the State Government had agreed to give to any class or classes of consumers.

(3) The tariff determined by the Commission shall be published duly taking into account such subsidy offered by the State Government as on the date of the decision of the Commission.

(4) Notwithstanding anything contained in these regulations, no direction of the State Government shall be operative if the payment is not made by the State Government in accordance with the provisions of section 65 of the Act. In the event of such directions being not operative the amount of subsidy to be made by the State Government shall be added in the tariff to be charged by the licensees to the concerned class or classes of consumers.

(5) The Licensee shall be required to furnish documents to the satisfaction of the Commission that the subsidy amount received by the licensee from the State Government is duly accounted for and utilized for the purpose for which the subsidy is given.

PART-VII SURCHARGE

28. Surcharge. - (1) The Commission shall determine surcharge in view of the loss of cross-subsidy from the consumer or category of consumers who have opted for open access to take supply from a person other than the incumbent distribution licensee and such charges shall be utilized to meet the requirement of current level of cross subsidy and the entire amount of cross-subsidy lost by the incumbent licensee shall be compensated through these surcharges.

(2) For the purpose of computing cross-subsidy, the difference between cost-to-serve of that category and average tariff realization of that category shall be considered. Where no data is available, the surcharge shall be based on average cost instead of cost-to-serve of each category as an interim arrangement.

29. Additional surcharge.- (1) Where a consumer avails open access, the Commission may determine the additional surcharge to meet the fixed costs of the distribution licensee arising out of his obligation to supply and permit collection of such additional surcharge for the period the fixed cost remains stranded.

(2) This additional surcharge shall be applied in all cases where stranded costs are involved:

Provided that if the capacity released on account of a consumer changing from his distribution licensee to another person is productively utilized, then no stranded costs shall be deemed to be involved.

PART- VIII QUALITY OF SERVICE

30. Quality of Service. - (1). The Commission, after consultation with licensee, and persons likely to be affected, shall specify realistic standards of performance (depending on the local conditions) of the licensee and may improve them from time to time. In case of non-compliance of these standards, Commission may award compensation to the affected consumers as determined by the Commission.

(2) The Commission may engage independent agencies to audit the data submitted by the licensee and may also periodically conduct customer satisfaction surveys through independent agencies.

PART-IX TARIFF ORDER AND REVISION THEREOF

31. Hearing. - (1) The Commission may hold proceedings on the revenue calculations and tariff proposals given by the generating companies or the licensee and may hear such persons as the Commission may consider appropriate to decide on such revenue calculations and tariff proposals.

(2) The procedure of hearing on the revenue calculations and tariff proposals of the generating company or the licensee shall be in the manner as the Commission may decide from time to time.

32. Order of the Commission. - (1) Upon hearing the generating company or the licensee, as the case may be and such other parties and upon making such other inquiry as the Commission considers to be appropriate, the Commission shall make an order and notify the generating company or the licensee of its decision on the revenue calculations and tariff proposals.

(2) While making an order under sub-regulation (1) or at any time thereafter, the Commission may direct the publication of the tariff determined by the Commission which the generating company or the licensee shall charge from different consumers or customers and categories thereof in the ensuing period.

(3) The Commission shall, within seven days of the order, forward a copy of the order to the State Government, the Central Electricity Authority and the concerned licensees and to the concerned persons.

33. Publication.- (1) The generating company or the transmission or the distribution licensee shall publish the tariff approved by the Commission in the newspapers having circulation in the area of supply as the Commission may direct. The publication shall, besides such other things as the Commission may require, include a general description of the tariff changes and its effect on the classes of the consumers.

(2) The tariffs so published under sub regulation (1) shall be notified tariffs applicable in the concerned area. In case of any increase in tariff, the same shall take effect only after such number of days as the Commission may direct which shall not be less than seven days, from the date of first publication of the tariffs.

34. Bills to Consumers. - (1) The generating company or the licensee shall raise bills for the energy supplied or transmitted or services rendered to the consumers only in accordance with the notified tariff and the sub-regulation (4) of regulation 27 of these regulations.

(2) The bills to the consumers shall distinctively display the per unit cost of supply of electricity to the class of consumer as determined by the Commission, the subsidy, if any, given by the State Government applicable to such class of consumers and per unit amount of such subsidy, the bill amount payable by the consumer and the cross subsidization of the class of the consumer in the tariff made applicable without taking into account of subsidy from the State Government.

35. Tariff Revision. - (1) No tariff determination by the Commission may be amended more frequently than once in any financial year:

Provided that the Commission shall allow the revision in the tariff more than once in any financial year to take care of force majeure or cost variations due to uncontrollable factors like the mid term determination of tariff of any generating company or the licensee supplying power to the licensee.

(2) The consequential orders which the Commission may issue to give effect to the subsidy that the State Government may provide shall not be construed as amendment of tariff notified. The licensee shall, however, give appropriate adjustments in the bills to be raised on the consumers for the subsidy amount in the manner the Commission may direct.

PART –X MISCELLANEOUS

36. Interpretation.- If any difficulty arises with regard to the interpretation of the tariff determined by the Commission and/or its attendant conditions, directions, orders or terms, the Commission may, by order, provide clarifications not inconsistent with the provisions of the Act and these regulations, as may appear to be necessary for removing the difficulty and the Commission order shall be final and binding.

37. Power to remove difficulties. – (1) If any difficulty arises in giving effect to the provisions of these regulations, the commission may, by order published, make such provision not inconsistent with the provision of the Act and these regulations, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this regulation after the expiry of one year from the date of commencement of these regulations.

(2) Every order made under this regulation shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

By Order of Commission

**Sd/-
Secretary**

APPENDIX-1
(See regulation 17)

FORMAT FOR FURNISHING TECHNICAL DETAILS BY GENERATING COMPANIES

1. General

- (a) Name of the Company :
- (b) Address of Registered Office :
- (c) Postal address for communication :
- (d) Location of the proposed Generating Station :

2. Particulars of proposed generating Unit(s)

- (a) Capacity in KVA of the Plant :
- (b) No. of Units :
- (c) Capacity of each unit :
- (d) No. of Phases :
- (e) Power Factor :
- (f) Frequency (Hz) :
- (g) Technical specifications of other equipment :
- (h) Voltage of generation :

3. Fuel for the proposed power plant

- (a) Coal/Gas/Naptha :
- (b) Others – Specify fuel :
- (Strike-off whichever is not applicable) :

4. Tie-up for supply of fuel

(applicable for large unit(s) i.e. MVA and above)

- (a) Whether fuel/coal linkage is received if yes, particulars :
- (b) Whether fuel transport agreement entered into, is yes, give details:

5. Other technical particulars.

- (a) Proposed date of commencement of generation :
- (b) Salient features of the project relating to
Technical details of Generator, Prime Mover,
Exciter, Automatic Voltage Regulation, Switch gear
Protection, Interconnection facilities with Licensee :
(to be separately attached) :
- (c) Planned peak generation in MW :
- (d) Operating plant load factor :
- (e) Total annual requirement of electricity
in millions of units by the industry :
- (f) Peak requirement of the industry in MW :
- (g) Voltage at which interconnection with licensee system is desired:
- (h) Nearest supply point of interconnection with licensee :
- (i) Arrangements for synchronization, if generating units are proposed to be run in parallel:
- (j) Estimated cost of proposed interconnection:

Signature