

**The Secretary
Telangana State Electricity Regulatory Commission
11-4-660, 5th floor
Singareni Bhavan, Red Hills
Hyderabad - 500 004**

February 4, 2020

Respected Sir,

Sub : Further to my submissions dated 27.1.2020 on the MYT proposals of TS Discoms for wheeling charges for the 4th control period, and in response to additional information submitted by them to the Hon'ble Commission relating to their true-up claims for the 3rd control period, as shown in the website of the Commission, I am submitting the following additional points for its consideration:

- 1. As already submitted earlier, the Hon'ble Commission is expected to take up for public hearing the true-up/true down claims for the 3rd control period, long-term load forecast, etc., for the 4th control period and MYT proposals of the Discoms (and TS Transco and SLDC for the 4th control period in that order. These different issues need detailed study and analysis for making submissions to the Hon'ble Commission as a part and parcel of regulatory process. As such, each one of these issues needs to be taken up for public hearing and consideration separately. The additional information and data submitted by the licensees needs to be segregated on the basis of the issue to which they pertain. Clubbing information, data and submissions of the utilities directly unrelated to the subject MYT proposals would compound the complexity of the issues for study and analysis. Moreover, public hearings are scheduled for MYT proposals of the Discoms on 6.2.2020 and for TS Transco and SLDC on 7.2.2020. The additional information is put on the web site of the Hon'ble Commission on 27.1.2020. The available time is quite inadequate to study, analyse, prepare and file our submissions before the Hon'ble Commission and get replies to the same from the utilities concerned. As such, we request the Hon'ble Commission to take up true-up claims and MYT proposals of the utilities separately by rescheduling the dates of public hearings, giving adequate time to objectors to file their submissions, and the utilities to give their replies and the objectors to study the replies and make further submissions during public hearings. Nevertheless, we are making some preliminary submissions on some of the aspects figured in the additional**

information submitted, as shown in the web site of the Hon'ble Commission, for its consideration. We can make detailed submissions later, if the Hon'ble Commission reschedules dates of public hearings as requested above.

2. TSSPDCL has filed for the truing-up of Rs 1300.69 Crs for the third MYT control period from FY 2014-15 to FY 2018-19. The Discom has explained that under the UDAY scheme, total outstanding debt balance of TSSPDCL of Rs.6196 crores (75% of total outstanding) as on 30.09.2015 has been taken over by Government of Telangana. The GoTS has released Rs. 4593.84 crores in 2016-17 and Rs.282.93 crores in 2017-18 in the form of equity. The outstanding loans of the Discoms which include long-term and short-term borrowings have been taken over by the GoTS in the form of equity infusion in the DISCOMs. This equity in the DISCOM shall attract return on investment to the shareholder (State Government) i.e. @ 16% p.a., the Discom has maintained. The Hon'ble Commission in the MYT tariff order for 3rd control period has approved debt-equity norm of 75:25 where 25% of equity attracts 14% of return on capital employed (& 2% of supply margin) and 75% of debt shall assume cost of finance of 12%. The debt taken over by the GoTS under UDAY has resulted in change in the actual debt-equity mix which is in the ratio of 28:72 in FY 2016-17, the Discoms has argued. As per Clause 5.11 (b) of National Tariff Policy, 2016, *“For financing of future capital cost of projects, a Debt: Equity ratio of 70:30 should be adopted. Promoters would be free to have higher quantum of equity investments. The equity in excess of this norm should be treated as loans advanced at the weighted average rate of interest...”*, the Discom has submitted. Thus the equity in excess of 25% shall be treated as normative loan and weighted average rate of interest has to be allowed, and debt-equity mix of 75:25 has to be considered for FY 2016-17 as per the norms approved, it has maintained. So, no benefit has been accrued to the DISCOM due to UDAY as the equity infusion by the GoTS attracts return on equity of 14% which is higher than the cost of debt that would have incurred in the absence of UDAY scheme, the Discom has made it clear. In other words, the TS Discoms are deprived of the benefit they should get from GoTS under UDAY.

3. TS NPDCL has submitted that *a statement of gain and loss against each controllable item will be presented after adjusting for any variations on account of uncontrollable factors*. The Discom has submitted that it has made revised estimates of the last year of the 3rd control period, i.e., FY 2018-19, in the present true-up filings in the absence of actuals. It has pointed out that its petition details the total truing up gap arising out of the deviations in both “uncontrollable” and “controllable” items for the third MYT control period with actuals for FY 2014-15 to FY 2018-19 in subsequent sections of this petition. However, it has failed to give the consolidated claims under true-up/true-down for the 3rd control period, unlike SPDCL has done.
4. Under UDAY scheme, as per the tripartite agreement signed between Ministry of Power, GoI, Government of Telangana and the two TS Discoms on 4.1.2017, out of the total debt of the TS Discoms, GoTS has to transfer Rs.4,462 crore (50%) in 2016-17 and Rs.2230 crore (25%) in the form of loan to the Discoms. It is also made clear in the tripartite agreement that the Discoms have to pay the interest on loans till takeover by GoTS and that the loan has to be taken over by GoTS in the year 2017-18. The balance Rs.2231 crore (25%) has to be transferred to the Discoms in the form of equity. Moreover, as per the said agreement, GoTS shall take over the future losses of the Discoms in a graded manner and shall fund the losses - 5% of the loss of 2016-17 in 2017-18, 10% of the loss of 2017-18 in 2018-19 and 25% of the loss of 2018-19 in 2019-20 and 50% loss of 2019-20 in 2020-21. Going by the submissions of TSSPDCL, GoTS, instead of Rs.2230 crore, as per UDAY agreement, infused a sum of Rs.4876.71 crore in the form of equity. It is a violation of the terms and conditions of UDAY agreement and a negation of the commitment GoTS had given therein. TSNPDCL has submitted that GoTS infused a sum of Rs.2396.17 crore for 2016-17 and Rs.450 crore for 2017-18 in the form of equity.

- 5. SPDCL has further submitted that it is noteworthy to mention that the loans taken under UDAY also comprise FRP loans taken to meet the power purchase payments and these costs of finance are not allowed by the Hon'ble Commission as a pass through under Distribution or Retail Supply Business. Hence no benefit can be claimed against these loans. Notwithstanding the UDAY agreement, the DISCOM has prayed the Hon'ble Commission to allow the true-ups for the 3rd control period entirely. Which, in other words, means penalising the consumers for the failure of GoTS to honour its commitments given in the UDAY agreement. Secondly, when FRP loans taken to meet the power purchase payments and costs of finance related thereto are not allowed by the Hon'ble Commission as a pass through under distribution or retail supply business, the Discoms are not entitled to claim the same under true-up now.**
- 6. In the tariff order for 2015-16, TSERC observed that “based on the month wise energy requirement and energy availability, there is no requirement of energy from bilateral/short term purchases.” However, true-up approved for 2015-16 shows that the Commission has approved true-up of 10,503.58 MU against 12,429.12 MU claimed to have been purchased in the market by the Discoms. Similarly, availability of 56,109.09 MU for the year 2016-17 approved by TSERC excluded market purchases. However, true-up approved for 2016-17 shows that the Commission has approved true-up of Discoms. The Discoms have not submitted their true-up claims for 2015-16 and 2016-17, 2497.60 MU against 2837.43 MU claimed to have been purchased in the market by them along with ARR and tariff proposals for the year 2017-18, and relevant details of true up claims are hidden from the public gaze. However, the Commission has considered the true-up/true-down claims of the Discoms provisionally in the tariff order for 2017-18. The Commission has explained that it has carried out the monthly merit order dispatch and that the cost of power procurement has been considered based on the actual procurement cost for the respective generating stations, limiting the same to the actual energy purchase approved. The above projections and determination of availability and requirement of energy and true-up claims indicate the following trends and give rise to questions, among others:**

 - a) The claims of the Discoms and approvals of TSERC confirm that projections of availability and requirement of energy for 2015-16 and 2016-17 are inflated.**
 - b) Giving unreliable information about availability of energy and surplus in their submissions to the Commission for the years 2015-16 and 2016-17, without any need for market purchases, the Discoms had started purchases from the market after tariff orders were issued by the Commission.**

- c) That the Commission has reduced quantum of energy approved under true-up against quantum of energy claimed to have been purchased by the Discoms in the market for the two years shows that such purchases are not justified and permissible, at least, to the extent they are disallowed by the Commission.
 - d) The reasons for reduction of purchases from sources approved in the tariff orders and non-availability of energy as projected by the Discoms and approved by the Commission are not explained.
 - e) It is not shown whether any quantum of energy was backed down from the sources approved by the Commission and fixed charges paid for such non-generation, in order to purchase energy from the market.
 - f) It is not shown whether the Discoms had purchased power from the market, even while backing down from sources approved by the Commission, so as to avoid payment of 20% of cost of purchase to market sources, if they do not purchase the contracted quantum of power, as incorporated in the power purchase agreements with them.
 - g) It is not shown whether the Discoms had purchased power from market sources on round-the-clock basis, even to meet demand during peak hours only.
 - h) It is also not explained whether the Discoms had followed the directives given by the Commission in its tariff order for 2015-16 for procurement of power on RTC basis and from short-term sources taking prior approval of the Commission to verify the transparent process of procurement, guidelines under Electricity Act, 2013, and of the Commission, and submission of details of methodology followed for procurement on emergency basis by the Discoms, along with source-wise price of procurement.
 - i) For the year 2015-16, purchase of power by the Discoms had come down to 45,586.94 MU from 48,550.97 MU approved by the Commission. However, the cost of power purchase had increased from Rs.18850.99 crore approved in the tariff order by the Commission to Rs.20071.22 crore under true-up claims, i.e., an excess of Rs.1220.23 crore. The Commission has approved a sum of Rs.610.11 crore only under true-up to be recovered from the consumers. The reason given by the Commission for approving around 50% of the excess amount of cost of power purchase claimed by the Discoms under true-up is that the Discoms have not substantiated savings due to UDAY scheme under which the Government of Telangana has to take over 75% of outstanding debt of the Discoms as on 30.9.2015.
 - j) For the year 2016-17, purchase of power by the Discoms had come down to 46,843.05 MU against 52,063 MU approved by the Commission. Similarly, cost of power purchase of Rs.20628.26 crore claimed under true-up is reduced to Rs.19,755.31 crore by the Commission. The Commission has approved a surplus of Rs.838.46 crore for true-down.
7. Even while claiming availability of surplus power on a large scale, the Discoms started purchasing power in the market. This is despite the fact that TSERC, in its tariff order for 2017-18, allowed no market purchases against 2796.93 MU proposed by the Discoms. The reasons for purchasing additional power from the market and exchanges need to be submitted and examined.

8. For the year 2018-19, the TS Discoms have projected availability of 67573 MU, including market purchases. Against that, the commission approved availability of 65595.49 MU, including 1158.59 MU from the market. The Commission has considered the surplus energy availability of 8046.59 MU and the revenue from sale of available surplus energy at an average price of Rs.3.10 kwh (Rs.2494.44 crore) and adjusted that in the total power purchase cost. However, whether the Discoms would be able to sell all the surplus energy available during 2018-19 is questionable. It can be safely presumed that TSERC has considered that all the surplus energy available to the Discoms would be sold in the market and adjusted the revenue that would accrue in the total cost of power purchase, obviously, with a view to showing deflated requirement of revenue by the Discoms and thereby reducing requirement of subsidy from the Government of Telangana in view of the latter's decision not to hike tariffs in the pre-election period and agreeing to provide subsidy that is less than required.
9. TSERC has determined the average cost of power purchase for the year 2018-19 at Rs.4.07 per kwh comprising fixed component of Rs.1.89 per kwh and variable component of Rs.2.18 per kwh on an average. Compared to the purchase cost of Rs.4.07 per kwh, the proposed average price of Rs.3.10 per kwh for selling surplus power shows a difference of Rs.0.97 per kwh. In other words, if the Discoms can sell the determined surplus power at Rs.3.10 per kwh, it would result in a loss of Rs.780.51 crore @ Rs.0.97 per kwh. If the Discoms are not able to sell the surplus power, at an average rate of Rs.1.89 per kwh, they have to pay Rs.1520.80 crore towards fixed charges for backing down the surplus of 8046.59 MU! What is the basis for fixing a sale price of Rs.3.10 per kwh? It is made clear in the tariff order for 2018-19 that the Government of Telangana has agreed to provide a subsidy of Rs.4984.30 crore against the revenue gap of Rs.5940.47 crore determined by the Commission, thereby leaving a gap of Rs.956.17 crore. The Commission has directed the Discoms to positively pursue for the release of the differential amount. In case of non-commitment by GoTS for the release of the said differential amount by 30.9.2018, the Discoms shall file petitions before the Commission seeking appropriate relief, the latter has directed. In addition to this differential amount, obviously, there is an additional revenue gap of Rs. Rs.2494.44 crore to adjust which the Commission has simply directed the Discoms to sell the determined surplus power @Rs.3.10 per kwh! In other words, the total additional revenue gap yet to be bridged works out to Rs.3450.61 crore (956.17+2494.44 crore), if surplus power cannot be sold and the Government refuses to provide additional subsidy required. Such unbridged revenue gap by the end of the financial year would lead to claims for true-up. In other words, such unrealistic approach in expecting the Discoms to sell all the surplus energy available would postpone the burdens to be imposed on the consumers to a future period. Did the TS Discoms pursue with GoTS to get the balance revenue gap of Rs.956.17 crore towards subsidy for the last year of the third control period? If so, what is the result? Could the Discoms sell surplus power to get additional revenue of Rs.2494.44 crore for the same year? If not, what are the quantum of surplus

power backed down and the fixed charges paid therefor? Or, will the Discoms claim such amounts under true-up for retail supply business?

10. TSSPDCL has claimed true-up of Rs.198.11 crore for the first control period and Rs.194.26 crore for the second control period. TSNPDCL has claimed true-up of Rs.183.2 crore for first control period and Rs.386.5 crore for the second control period. For the first, second and third control periods while SPDCL has claimed a total true-up of Rs.1693.06 crore, NPDCL has claimed true-up of Rs.569.7 crore for the first and second control periods and it has to give consolidated figure of true-up for the third control period.
11. In its replies dated January 31, 2020, to our earlier written submissions, SPDCL has maintained that the existing regulation does not mandate any public hearing process to approve the Load forecast and Resource Plan. The contention of the Discom is no justification for avoiding public hearing on the same. Long-term load forecast and resource and procurement plans for a control period are crucial for various reasons. They form the basis for addition of installed capacities for generation, expansion of transmission and distribution networks and requirements of SLDC for the control period. Even for the interested public who participate in the regulatory process of the Hon'ble Commission, they are very much necessary to study, analyse and submit their objections and suggestions on various issues that come up for public hearing during the control period; they are important documents for reference. After a long time, and repeated requests made by us for more than four years, APERC had directed the Discoms to submit long-term load forecast, resource and procurement plans and held public hearings on the same and issued its orders. Though the existing regulation does not specifically mandate any public hearing on the subject, it is obvious that the Hon'ble Commission is competent to take a decision to hold public hearings on the issues, keeping in view their wide-ranging importance. Not making long-term load forecast and resource and procurement plans for the control period public would negate the principles of transparency and accountability. Not holding public hearing on the same would negate one of the very important objectives of the very existence of a regulatory Commission - providing opportunity for public participation on crucial issues in regulatory process. Non-submission of long-term load forecast, resource and procurement plans by the power utilities has played havoc with orderly development of power sector, with the ERC giving its consents to all the PPAs submitted by the Discoms, leading to availability of abnormal quantum of surplus power and imposition of avoidable burdens running into thousands of Crores of Rupees on the consumers in the form of purchasing high cost and must-run NCE, backing down relatively cheaper thermal power and paying fixed charges therefor on a long-term basis. That is the disastrous outcome AP Discoms find themselves in. TS Discoms also might be facing similar predicament, with a difference in degree. Therefore, I once again request the Hon'ble Commission to uphold the principles of transparency, accountability and public participation which are intrinsically imperative for its regulatory process and hold public hearings on the long-term load forecast and resource and

procurement plants, etc., submitted by the Discoms and TS Transco as a prerequisite for considering their MYT applications for the fourth control period.

12. SPDCL has replied that it has projected the sales forecast, energy requirement and peak demands (coincident & non-coincident peaks) for the next control period in the load forecast and resource plan filings. It has further maintained that the formulation of power procurement plan for 5 years requires co-ordination with TS Genco, central generating sources, non-conventional energy sources and other available generating sources which will be submitted shortly. There is no justification in the Discom not incorporating the projected sales forecast, energy requirement and peak demands for the next control period in the subject filings. The approach of the Discom in concealing the said information from public gaze and expecting the interested public to submit their objections and suggestions to the Hon'ble Commission is questionable; it implies that the interested public should take the unknown filings of the Discoms for granted. It also implies that the Discoms do not want the reality in its totality to be known to the public. It is evident from the fact that the Discoms, in their true-up filings, have failed deliberately to give factual position relating to availability of power and surplus power during the 3rd control period and likely availability of the same during the 4th control period. The non-response of the Discom to the points raised in our written submissions which may lead to the projections of the Discoms going haywire confirms it. Submitting relevant information in instalments and proposing to submit "generating sources" required for the 4th control period "shortly" shows the failure, whether deliberate or unavoidable, of the Discoms to do their work in time and in a holistic manner to meet the requirements of regulatory process of the Hon'ble Commission, including holding public hearings.
13. The reply of the Discom that in accordance to the orders of the Hon'ble Commission, it levies the tariffs as applicable on 31.03.2019 from 01.04.2019 till the disposal of applications finally cannot justify, in legal terms, either collection of such charges from 1.4.2019 till the Hon'ble Commission gave its interim order or the failure of GoTS in appointing the Hon'ble Chairman and Members of the Commission in time which, in fact, forced the Discoms to commit an illegality.
14. We request the Hon'ble Commission to direct the Discoms to submit relevant information, as sought in our submissions, among others, and provide the same to us enabling us to make further submissions.

Thanking you,

Yours sincerely,

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