

Tamil Nadu Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Transmission/Distribution of Electricity Under MYT Framework) Regulations, 2009

TAMILNADU

India

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Rule

TAMIL-NADU-ELECTRICITY-REGULATORY-COMMISSION-TERMS-AND-CONDITIONS-2009

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Tamil Nadu Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Transmission/Distribution of Electricity Under MYT Framework) Regulations, 2009 Published vide Notification No. TNERC/MYT/18/1 dated 11-02-2009 Whereas the Tamil Nadu Electricity Regulatory Commission specified the TNERC (Terms and Conditions for determination of Tariff) Regulations 2005 (hereafter called Principal Regulations) under section 61 of the Electricity Act 2003 (Central Act 36 of 2003) read with section 181 thereof and published in the Tamil Nadu Gazette (Part VI - Section 2 Supplement) dated August 3, 2005; And whereas sub-section (1) of Regulation 14 of the said Regulations specified that the Commission may implement multi year tariff for the Transmission and Distribution licensee for a period to be notified by the Commission; And whereas para 5.3 (h) (1) of the National Tariff Policy notified by the Government of India on 06.01.2006 stipulated that the Multi year Tariff framework is to be adopted for any tariff to be determined from April, 2006 and hence it is considered necessary to make regulations for adoption of Multi year Tariff framework. Now therefore in exercise of the powers conferred under section 61 of the Electricity Act 2003, (Central Act 36 of 2003) read with section 181 of the said Act, and all other powers enabling it in this behalf, and after previous publication, the Tamil Nadu Electricity Regulatory Commission, hereby makes the following Regulations, namely:

Chapter I

General

1. Short Title and Commencement.

(a) These Regulations may be called TNERC (Terms and Conditions for Determination of Tariff for Intra state Transmission / Distribution of Electricity under MYT Framework) Regulations, 2009. (b) These Regulations are applicable to any person engaged in the business of Intra State Transmission/Distribution of Electricity within the State of Tamil Nadu. (c) These Regulations shall be read along with the TNERC (Terms and conditions for determination of tariff) Regulations, 2005. (d) These Regulations shall come into force on the date of their publication in the Tamil Nadu Government Gazette.

2. Definitions.

(1) In these Regulations unless the context otherwise requires: (a) "Act" means the Electricity Act, 2003 (36 of 2003); (b) "Aggregate Revenue Requirement" (ARR) means the revenue required to meet the costs pertaining to the licensed business, for a financial year, which would be permitted by the Commission to be recovered through tariffs and charges; (c) "Base year" means the financial year immediately preceding the first year of the Control Period; (d) "CERC" means the Central Electricity Regulatory Commission established under section 76 of the Act; (e) "Commission" means the Tamil Nadu Electricity Regulatory Commission; (f) "Conduct of Business Regulations" means the Tamil Nadu Electricity Regulatory Commission (Conduct of Business) Regulations 2004; (g) "Consumer/User contributions" means any contributions made by those using or intending to use the Transmission / Distribution network of a licensee; (h) "Control period" means a multi-year period fixed by the Commission from time to time under the Multi year Tariff framework; (i) "CTU" means Central Transmission Utility; (j) "Distribution Business" means the business of operating and maintaining a distribution system for supply of electricity in the area of supply of the distribution licensee; (k) "Distribution Licensee" means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply; (l) "ERC" means the Expected Revenue from Charges that a licensee is permitted to recover pursuant to the terms of his licence; (m) "Financial year" means the period commencing on 1st April of a calendar year and ending on 31st March of the immediately following calendar year; (n) "Grid Code" means the Tamil Nadu Electricity Grid Code; (o) "Licence" means a licence granted under Section 14 of the Act; (p) "Non-Tariff Income" means income other than from: (i) Tariff for Transmission / Distribution and (ii) Income from Other licensed Business; (q) "Open Access Customer" means a consumer permitted by the Commission to receive supply of electricity from a person other than the Distribution licensee of his area of supply, and the expression includes a generating company and licensees, who have availed of or intend to avail of open access; (r) "Other Business" means any business engaged in by a Transmission / Distribution licensee under sections 41 and 51 of the Act respectively for Optimum utilization of the assets of the transmission/distribution business and shall include any business of the licensee other than the Transmission/ Distribution business; (s) "State" means the State of Tamil Nadu; (t) "STU" means the

State Transmission Utility;(u)"SLDC" or "State Load Despatch Centre" means the centre established under section 31 of the Act;(v)"Tariff Regulations" means the Tamil Nadu Electricity Regulatory Commission (Terms and conditions for determination of Tariff) Regulations, 2005;(w)"Transmission Business" means the business of transmitting electricity within the state.(2)Words or expressions occurring in these Regulations and not defined herein but defined in other Regulations published by the Commission or the Electricity Act 2003 shall bear the same meanings respectively assigned to them in the Act/Regulations.

Chapter II

3. Multi year Tariff framework.

- [(i) Control Period: The control period under the MYT framework shall be for a duration of 3 years. The year preceding the first year of the control period shall be the base year.] [Substituted by Notification No. V1(2) 1502/2012, dated 28.11.2012.](ii)Aggregate Revenue Requirement (ARR): The licensee seeking tariff for multi year shall furnish ARR for each year of the control period in the formats specified in the Tariff Regulations along with the tariff petition.(iii)Estimated Revenue from Charges (ERC) at the existing tariff: The licensee shall furnish along with tariff petition the estimated revenue at the existing tariff for each year of the control period in the formats specified in the Tariff Regulations.(iv)[Business Plan: [Substituted by Notification No. TNERC/MYT/18/2, dated 28-2-2011 (wef 23.3.2011)] Every licensee shall submit the business plan and power purchase plan for approval of the Commission, at least six months prior to submission of the MYT petition. The business plan shall contain projection for all activities including on going projects, new projects with the specific nature, loss reduction, effective and tamper-proof metering etc., The licensee shall also furnish the criteria adopted for such projection. The Commission shall issue the order on the business plan and the power procurement plan within four months of submission, so that the licensee is able to submit the MYT petition on the basis of the approved plan.](v)Capital Investment Plan: The licensee shall get the approval of the Capital Investment Plan for each year of the initial control period in accordance with the Regulation 17 of TNERC Tariff Regulations. It may be ensured that the approval of the Commission is obtained before tariff filing under MYT framework. The capital investment plan shall have capitalization schedules for each year of the control period. The source of finance to meet the capital expenditure in each year of the control period shall also be furnished along with Capital Investment Plan.(vi)Trajectory of specific variables: Where the performance of the licensee is sought to be improved through incentives/ disincentives, trajectory for specific variables shall be stipulated by the Commission.(vii)True up of variations in revenue and cost: The variations on account of controllable factors like sales and power purchase shall be reviewed at the end of each year of the control period based on audited accounts of the licensee and prudence checks by the Commission.(viii)Mechanism of pass through of approved gains or losses on account of uncontrollable factors: As stipulated in Regulation 14 of Tariff Regulations, the following constitute uncontrollable costs.(a)Cost of fuel;(b)Costs on account of inflation;(c)Taxes and duties and(d)Variation in power purchase unit cost from base line level including variation on account of hydro-thermal mix in case of force majeure and adverse natural events like draught. The licensee shall file application for revision on account of such variation for Commission's consideration and orders. In respect of variations in power purchase unit cost due to hydro - thermal mix, the

variations will be considered duly taking into account the Hydro Balancing Fund.(ix)[Mechanism for sharing approved gains or losses arising out of controllable factors: [[Substituted by Notification No. TNERC/MYT/18 / 2 , dated 28-2-2011 (wef 23.3.2011)'] (ix) Mechanism for sharing approved gains or losses arising out of controllable factors: The financial loss, if any, due to failure to achieve the target for the controllable costs in any of the years in the control period shall be borne by the licensees and the gains, if any, shall be shared with the beneficiaries at 50:50.]] The financial loss, if any, due to failure to achieve the target for the controllable costs in any of the years in the control period shall be borne by the licensee and the efficiency gains, if any, with respect to controllable parameters shall be shared between the licensee and the consumer in the ratio of 2 :1.](x)Annual review of performance: (a) The Commission may undertake annual review of licensee's performance at the end of each year of the control period.(b)The licensee shall submit information as part of annual review on actual performance to assess the performance vis-a-vis the targets approved by the Commission at the beginning of the control period. This shall include annual statements of its performance and accounts including latest available audited / actual accounts and the tariff worked out in accordance with these Regulations.(c)The Commission may, on an application from the licensee, may consider any modification to the forecast of the ARR for the remainder of the control period with detailed reasons for the same.

4. Filing under MYT Frame Work.

- Every licensee shall file an application for approval of ARR & ERC along with tariff proposal under MYT framework for the control period commencing from the financial year to be notified by the Commission. The filing shall be in the tariff filing formats specified in Appendix I to the Tariff Regulation and for each year of the control period (i.e) for base year, 1st year of control period, second year of control period etc.,The Commission has already notified Tariff Regulations on 03.08.2005. The general principles of computing cost and return and calculation of ARR, estimation of revenues and formats for tariff filing in the above Tariff Regulations are to be adopted for the tariff filing under MYT framework also. The detailed procedure for making application for determination of tariff and decision on application shall be in accordance with Regulations 6 and 7 of Tariff Regulations.

5. Disposal of Application.

(a)The Commission will process the licensee's filings under MYT framework in accordance with these Regulations read with TNERC conduct of Business Regulations.(b)Based on the licensee's filing and objections / suggestions from public and other stakeholders, the Commission may accept the application with such modifications and / or such conditions as may be deemed just and appropriate and issue, within 120 days of the receipt of the complete application, an Order on the tariff applicable for each year of the control period. The order shall also contain targets for controllable items.(c)The Commission may also approve, the Business plan with appropriate modifications as may be considered necessary for the control period.

Chapter III

6. Determination of Intra State Transmission Tariff under MYT.

(1)The State Transmission Utility/Transmission licensee shall make an application for determination of Transmission tariff for each year of the control period in accordance with the provisions in Tariff Regulations.(2)The annual Transmission charges for the control period shall be estimated based on the audited annual accounts of the licensee.(3)The Transmission charges shall be computed as detailed below:The annual transmission charges consist the following:(i)Interest on loan capital,(ii)Depreciation,(iii)Operation and Maintenance expenses,(iv)Interest on working capital,(v)Return on Equity,The above charges shall be computed on the following basis under MYT framework.

7. Interest on loan capital.

- The borrowings and repayments for each year of the control period may be arrived at with reference to the approved capital investment plan and the estimated internal resources. Interest on loan for each year of the control period may be calculated in form 13 in Appendix I (Part -III) to the Tariff Regulations.

8. Depreciation.

- Depreciation rates shall be as per the Schedule annexed to the Tariff Regulations. Addition to the asset base in each year of the control period shall be as per the approved capitalization schedule.

9. Operation and Maintenance (O&M).

- The Operation and Maintenance expenses include the following: Repairs & maintenance costs;Employee-related costs and Administrative & general expenses,The O&M expenses shall be derived on the basis of actual expenses for the past five years previous to base year based on the audited Annual Accounts, after prudence check by the Commission.The O&M expenses so arrived for the base year may be escalated by four per cent per annum for every year of the control period.The licensee may also propose indexation for estimating the O&M expenses. O&M expense is a controllable cost and the licensee cannot recover the cost in excess of norms. The licensee shall share the gains on account of savings with the beneficiaries as provided in regulation 3(ix).

10. Interest on working capital.

- Norms for working capital shall be as per regulation 26 of Tariff Regulations. The quantum of working capital for each year of the control period may be computed with reference to the value of different components applicable for the respective years. The rate of interest on working capital shall be equivalent to short term primary lending rate of State Bank of India as on 1st April of the initial year of the control period. The variation in the rates in the subsequent years in the control

period will be considered in the True up.

11. Return on Equity.

- Return on Equity shall be 14% per annum post tax for each year of the control period and computed in accordance with regulation 22 of Tariff Regulations.[The Distribution licensee shall achieve various indices related To supply availability as given by the Commission from time to time. For every under achievement of 1% in composite availability for urban and rural areas, ROE shall be reduced by 0.1%.] [Inserted by Notification No. TNERC/MYT/18/2 dated 28-2-2011 (wef 23.3.2011).]

12. Transmission capacity.

- The STU / Transmission licensee shall furnish, along with tariff application, the capacity allotted to all long term customers on the base year and estimates for the allotted capacity for each year of the control period. The STU/Transmission licensee shall also furnish the estimates for the available capacity for each year of the control period with reference to planned generation capacity additions.

13. SLDC Charges.

- The STU/ Transmission licensee may segregate and furnish the value of SLDC assets for the purpose of determining SLDC charges.

14. Unbundling of Transmission cost.

- Wherever the licensee is functioning as an integrated utility, the transmission cost is to be segregated and projected appropriately for each year of the control period.

15. Taxes on income.

- The tax on income of the Transmission licensee shall be computed as expenses and allowed as pass through. The licensee shall estimate the income tax for each year of the control period. The difference, if any, will be adjusted based on the actual tax assessed.

16. Incentives.

- The Transmission Licensee shall be entitled to incentive @ 1% of equity for each percentage point of increase in annual availability beyond the target availability prescribed under regulation 58(b) (i.e) 98% in accordance with the following formula $\text{Incentive} = \text{Equity} * (\text{Annual Availability achieved} - \text{Target availability}) / 100$. A portion (as decided by the Commission) of the incentive shall be shared with the long term OA customers in the ratio of their average allotted capacity.

17. Expected Revenue from charges at the existing tariff.

- The STU/ Transmission licensee shall furnish the expected revenue at the existing tariff for each year of the control period in the format prescribed in the Tariff Regulations along with tariff petition under MYT framework.

18. Other Income.

- The STU/Transmission licensee shall furnish the details of estimated other income for each year of the control period in the format specified in the Tariff Regulations.

19. Detailed tariff proposal (multi year).

- The STU / Transmission licensee shall propose tariff for each year of the control period based on the estimated annual transmission charges and estimated allotted capacity as provided in Regulation 12 for the same for each year of the control period.

20. Determination of Transmission charges.

- The transmission charges payable by the long term intra state open access customers like the distribution licensees and other beneficiaries, for each year shall be arrived at as per Regulation 59 of the Tariff Regulations. The charges for usage of transmission facilities by long term beneficiaries shall be based on the capacity allotted and on MW / Day basis.

21. Charges for State Load Despatch Center (SLDC).

- Till such time the cost of SLDC is segregated, the charges for SLDC for each year of the control period shall be determined by the Commission on a lump sum basis.

22. Reactive power charges under MYT framework.

- The Reactive power charges for each year of the control period shall be regulated as per the Tariff Regulations. The rate will be notified by the Commission in the MYT Tariff order.

Chapter IV

Determination of Tariff for Distribution of Electricity Under MYT

23. Application for determination of tariff.

- The Distribution licensee shall file application for determination of tariff under MYT framework for each year of the control period for retail supply of electricity along with ARR in accordance with the procedure notified in the Tariff Regulations. The application shall also be accompanied with the

following statements for each year covered in the control period in the formats specified in the Tariff Regulations.(a)A statement showing current tariff and applicable terms and conditions.(b)A statement showing demand / sales projections for different categories of consumers including slab wise consumption with a note on the method adopted to arrive at the projected growth rate.(c)The energy requirement details with Aggregate Technical and Commercial loss and sources of procurement of power.(d)A statement containing details of expected revenue at the current tariff for each year of the control period and the revenue gap to be matched with tariff at each year.(e)A statement showing cost to supply for electricity to different category of consumers at different voltage level with the allocation of Transmission and Distribution loss and consumer wise cross subsidy at the existing tariff.(f)A statement showing the subsidy received/receivable from Government at the existing tariff.(g)A statement showing the changes in tariff proposed for each category of consumer and the estimated revenue at the revised tariff.(h)A statement showing cross subsidy at revised tariff and subsidy committed by the Government, if any.(i)Any other information that the Commission may require.

24. Demand and energy forecast.

- The Distribution licensee shall forecast the demand and sale of electricity for different categories of consumers (including slab wise consumption) for each year of the control period .The licensee may adopt a suitable methodology like CAGR to arrive at the category wise sales for the base year.The licensee shall also furnish the category wise existing open access customers with the demand and the estimated number of consumers who may opt for open access and the estimated energy to be wheeled in each year of the control period. The details may be furnished separately for the supply within the area of the Distribution licensee and to the supply outside the Distribution licensee.

25. Aggregate Technical and Commercial loss (AT & C).

- The Commission shall fix benchmarks for reduction of losses and the licensee shall achieve the target fixed for each year of the control period.The AT & C loss is a controllable item and the financial loss, if any, on account of failure to achieve the target shall be borne by the Distribution licensee. The gains, if any, on account of achieving the loss below the targeted level shall be shared with the consumers.The Distribution licensee may arrange for third party verification of energy audit results for different areas / localities. They may propose to impose area / locality specific surcharge for greater AT & C loss levels which could generate local consensus for effective action for better governance.The Distribution licensee may introduce local area based incentive and disincentive schemes to it's staff, linked to reduction in losses.

26. Estimation of Energy Input Requirement.

- The energy input requirement shall be computed on the basis of estimated demand and AT & C loss for each year of the control period.

27. Energy Availability.

- The Distribution licensee shall furnish the sources and quantum of energy to be procured for each year of the control period duly taking into account the Merit Order Dispatch principles and the estimated increase in available capacity. Wherever the Distribution licensees have their own generating stations, the availability from generation shall be computed with reference to the normative plant load factor and auxiliary consumption. The availability from own Hydro stations shall be computed based on 25% plant load factor as specified in the Tariff Regulations. [Supply availability should be measured on the basis of power contracted by the distribution licensee on a long-term basis for the power procurement plan submitted by the utility.] [Inserted by Notification No. TNERC/MYT/18 /2 dated 28 -2-2011 (w.e.f. 23.3.20011).]

28. Cost on power purchase.

- The Distribution licensee shall forecast power purchase cost for each year of the control period strictly based on merit order dispatch. The Distribution licensee may file a petition for fuel surcharge adjustment (FSA) wherever there is variation in power purchase cost due to changes in fuel price during the control period. The Commission may issue orders to allocate per unit increase / decrease in the cost of power purchase to various categories of consumers appropriately. The increase in power purchase cost due to increase in quantum of purchase consequent to failure of monsoon shall be adjusted against the Hydro Balancing Fund.

29. Operation and Maintenance (O&M).

- The Operation and Maintenance expenses include the following: Repairs & maintenance costs; Employee-related costs and Administrative & general expenses. The O&M expenses shall be derived on the basis of actual expenses for the past five years previous to base year based on the audited Annual Accounts, after prudence check by the Commission. The O&M expenses so arrived for the base year may be escalated by four per cent per annum for every year of the control period. The licensee may also propose indexation for estimating the O&M expenses. O&M expense is a controllable cost and the licensee cannot recover the excess cost in excess of norms. The licensee shall share the gains on account of savings with the beneficiaries as provided in Regulation 3(ix).

30. Depreciation.

- Depreciation rates shall be as per the Schedule annexed to the Tariff Regulation. Addition to the asset base in each year of the control period shall be as per the approved capitalization schedule.

31. Interest on loan capital.

- The borrowings and repayments for each year of the control period may be arrived at with reference to the approved capital investment plan and the estimated internal resources. Interest on loan for each year of the control period may be calculated and furnished in form 13 in Appendix I

(Part -III) to the Tariff Regulations.

32. Taxes on income.

- The tax on income of the Distribution licensee shall be computed as expenses and allowed as pass through. The licensee shall estimate the income tax for the each year of the control period. The difference, if any, will be adjusted based on the actual tax assessed.

33. Bad and doubtful Debts.

- The Distribution Licensee shall make a provision of 0.25 % on outstanding debtors for each year of the control period towards Bad and doubtful Debts in accordance with the Regulation 29 of TNERC Tariff Regulations.

34. Insurance.

- The Distribution Licensee may adopt the practice of Self Insurance and a provision upto 0.5 % of the Capital Cost shall be allowed by the Commission in their Revenue Requirement for each year of the control period.

35. Contingency Reserve.

- To meet out any contingent liability or unforeseen revenue losses, the Distribution licensees shall maintain a contingency reserve. The Distribution Licensees shall estimate the contingency reserve on the value of Assets for each year of the control period.

36. Return on Equity.

- Return on Equity shall be 14% per annum post tax for each year of the control period and computed in accordance with regulation 22 of Tariff Regulations.

37. Expected Revenue at the existing tariff.

- The Distribution licensee shall furnish the expected revenue at the existing tariff for each year of the control period in the format prescribed in the Tariff Regulations along with tariff petition under MYT framework.

38. Non tariff income.

- The Distribution licensee shall furnish the details of estimated non tariff income for each year of the control period in the format specified in the Tariff Regulations.

39. Other Income.

- The Distribution licensee shall furnish the details of estimated other income for each year of the control period in the format specified in the Tariff Regulations.

40. Detailed tariff proposal (multi year).

- Under the MYT proposals, the Distribution licensee shall indicate tariff rates for each year of the control period to various categories of consumers taking into account the ARR, Non tariff income and other income.

41. Proposal for Wheeling charge, Surcharge and additional charge.

- The Distribution licensee shall submit along with MYT tariff filing, proposal for determination of Wheeling charge, Surcharge and additional surcharge for each year of the control period. The proposal shall contain the following details for each year of the control period. (i) Estimated value of assets - voltage wise. (ii) Estimated quantum of sale of energy to different categories of consumers at each voltage. (iii) Estimated break up cost (revenue expenses) for supply at EHT, HT and LT voltages. (iv) Estimated voltage wise AT & C loss. (v) Estimated cross subsidy levels. (vi) Estimated quantity of demand likely to be stranded.

Chapter V

Miscellaneous

42. Power to amend.

- The Commission for reasons to be recorded in writing, may, at any time, add, vary, alter, modify, delete or amend any provisions of these Regulations, on its own motion or on an application made before it.

43. Power to remove difficulties.

- If any difficulty arises in giving effect to any provisions of these Regulations, the Commission may, on its own or otherwise, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

44. Inherent power of the Commission.

- Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for the reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of

