

The same would be considered for computation of ARR, wherein the amount of electricity transmitted by the Transmission System shall be projected considering the estimated growth plan of its Beneficiaries and any plans of new transmission system, based on network expansion plans within the State.

5.5 The Commission may also undertake a detailed review of the actual works compared with the works approved in the previous Tariff Order while approving the capital expenditure for the ensuing year.

5.6 The Transmission Licensee shall normally get prior approval of every capital investment. In case the capital expenditure is required for emergency work arisen due to unforeseen circumstances, the Licensee may take up the work upto Rs.20 Crore prior to receiving the approval from the Commission provided the emergent nature of the scheme has been certified by its Board of Directors or by the Authority delegated by the Board of Directors.

5.7 The Licensee shall submit an application showing detailed justification along with supporting documents for emergent nature of expenses within 15 days of occurrence of cause for such emergent work, seeking post facto approval by the Commission.

5.8 Beneficiaries contribution towards cost of capital asset shall be treated as capital receipt and credited in current liabilities until transferred to a separate account on Commissioning of the assets.

5.9 An amount equivalent to the depreciation charge on such assets for the year shall be appropriated from this account as income to the statement of profit and loss over the useful life of the asset.

6. Specific trajectory for certain variables

6.1 The Commission shall stipulate a trajectory while approving the Business Plan, for certain variables having regard to the reorganization, restructuring and development of the electricity industry in the State:

Provided that the variables for which a trajectory may be stipulated shall include, but are not limited to, Capitalization Schedule (Timely completion of Project as per original award without cost overrun and Time overrun), Operation & Maintenance expense norms, transmission system availability, and transmission losses.

6.2 In case the Commission has approved the business plan by 31st October of current year, the trajectory stipulated by the Commission in the order approving the Business Plan submitted by the applicant, shall be incorporated by the applicant, in its forecast of Aggregate Revenue Requirement and/or expected revenue from tariff and charges under these Regulations.

7. Annual Review of Performance and True-up

7.1 Where the Aggregate Revenue Requirement and expected revenue from tariff and charges of a Transmission Licensee or SLDC, as the case may be, are covered under a Multi-Year Tariff framework, such Transmission Licensee or SLDC shall be subject to an annual review of performance and True-up during the Control Period in accordance with these Regulations.

8. Controllable and uncontrollable factors:

8.1 The “uncontrollable factors” shall comprise but not limited to the following factors which are beyond the control of, and could not be mitigated by the applicant:

- (a) Force Majeure events, such as acts of war, fire and natural calamities.
- (b) Change in law;
- (c) Taxes and Duties;
- (d) Variations in interest rates for long-term loan

8.2 The “controllable factors” shall comprise but not limited to the following factors which are within the control of, and are attributable to the applicant:

- (a) Variations in Transmission System availability;
- (b) Variations in capital expenditure and Capitalization on account of time and/or cost overruns/ efficiencies in the implementation of a capital expenditure project not attributable to an approved change in scope of such project, change in statutory levies or force majeure events;
- (c) Variation in Interest and Finance Charges, Return on Equity, and Depreciation on account of variation in capitalisation as specified in clause (b) above ;
- (d) Variations in transformation and transmission losses;

- (e) Variation in performance parameters;
- (f) Variations in Return on Equity (RoE), depreciation and working capital requirements. However, if the Commission is satisfied that the variation in the working capital requirement is attributable to any uncontrollable factors, the same may be considered as uncontrollable factor.
- (g) Variation in operation & maintenance expenses, except those attributable to directions of the Commission or to change in Government policy/law.
- (h) Failure to meet the standards specified in the Standards of Performance Regulations, except where exempted;

9. Mechanism for pass-through of gains or losses on account of uncontrollable factors

9.1 The approved aggregate gain or loss to the Licensee or SLDC, as the case may be, on account of uncontrollable factors shall be a pass through, as an adjustment in the tariff of the Licensee or SLDC, as the case may be, as specified in these Regulations and as may be determined in the Order of the Commission passed under these Regulations..

9.2 The Licensee or SLDC, as the case may be, shall submit such details of the variations between actual expenses incurred and revenue earned and the figures approved by the Commission along with the detailed computations and supporting documents as may be required for verification by the Commission.

10. Mechanism for sharing of gains or losses on account of controllable factors

10.1 The approved aggregate gain or loss to the Licensee or SLDC, as the case may be, on account of controllable factors shall be dealt with separately for aggregate gain and aggregate loss in the following manner:

(a) Aggregate gain:

(i) Two-third of the amount of such gain shall be a pass through as an adjustment in the tariff of the Licensee or SLDC, as the case may be,, as specified in these Regulations and as may be determined in the Order of the Commission passed under these Regulations;

(ii) The balance one-third of the amount of such gain shall be on account of Licensee or SLDC, as the case may be, and such amount shall be utilized at the discretion of Licensee or SLDC, as the case may be.

(b) Aggregate Loss:

(i) One-third of the amount of such loss shall normally be a pass through as an adjustment in the tariff of the Licensee or SLDC, as the case may be, as specified in these Regulations and as may be determined in the Order of the Commission passed under these Regulations, provided the Commission is satisfied that such loss is not on account of deliberate action of the Licensee or SLDC, as the case may be;

(ii) The balance two-third of the amount of such loss shall be on account of Licensee or SLDC and shall be absorbed by the Licensee or SLDC, as the case may be.

Explanation:- If the State Government is providing resource gap grant, Aggregate Loss shall be reduced by that amount for the purpose of computation of Aggregate Loss to be qualified for a pass through.

10.2 The Licensee and SLDC, as the case may be, shall submit such details of variation for sharing of approved aggregate gain or loss on account of controllable factors along with the detailed computations and supporting documents as may be required for verification by the Commission.

Explanation: For the purpose of variation for sharing of approved aggregate gain or loss on account of norms based expenditure, variation will be calculated as a difference between normative expenditure as recalculated in truing up and actual expenses booked in the audited books of accounts.

10.3 In case, there are other regulations which specifies for incentive/disincentive, gains/losses will not be shared under this regulation.

PART-III

PROCEDURE

11. Procedures relating to making of an application for approval of Business plan and for determination of Tariff

11.1 An application (alongwith soft copy) for approval of the Business Plan shall be made by 15th September of the year prior to the commencement of the Control Period, in accordance with the BERC (Conduct of Business) Regulations, 2005 and its amendments from time to time, and accompanied by such fee payable, as specified in the BERC (Fees, Fines and Charges) Regulations, 2019 as amended from time to time.

Provided that the Commission may conduct a Technical Validation Session prior to admission of the Petition

11.2 The Transmission Licensee in its Business Plan filings shall submit and propose the trajectory for the achievement of quality targets. The Commission shall specify the targets for each parameter. The Transmission Licensee shall submit its performance on each parameter in the form and manner specified by the Commission.

The Business Plan shall be for the entire control period and shall inter-alia, contain:

- (a) Capital Investment Plan
- (b) The appropriate capital structure and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;
- (c) Operation and Maintenance (O&M) expenses: This shall include the costs estimated for the Base Year, the actual expenses incurred in the previous control period and the projected values for each year of the Control Period based on the proposed norms for O&M cost, including indexation and other appropriate mechanisms;
- (d) Depreciation: Based on the original cost of the fixed assets of the corresponding year, capitalisation schedules for each year of the Control Period and at the rate not exceeding the rate specified by the Central Electricity Regulatory Commission;
- (e) Performance Targets: A set of targets proposed for controllable items such as availability of transmission system, transmission losses, transformer failure rate, and any other parameters for quality of supply. The targets shall be consistent with the Capital Investment Plan proposed by the Transmission Licensee;
- (f) Proposals for Non-Tariff Income with item-wise description and details;
- (g) Proposals in respect of income from Other Business;

- (h) Other Information: This shall include any other details considered appropriate by the Transmission Licensee for consideration during determination of tariff; and

11.3 An application (alongwith soft copy) for determination of tariff and charges shall be made by 15th November every year, for Truing up of expenses of previous years, for Annual Performance Review (APR) of the Aggregate Revenue Requirement (ARR) for the current year and determination of ARR and transmission tariff or SLDC charges for the ensuing years of the control period. The application should contain the data relating to each item of the ARR supported with the information/data in the formats Form no-SI to Form no-P12 appended to these Regulations, and accompanied by such fees as may be specified under the BERC (Fees, Fines and Charges) Regulations, 2019 as amended from time to time. All the information as required in the formats appended to these Regulations along with justification shall be provided in the main petition.

Provided that the Commission may require submission of additional information/data required for determination of ARR and tariff.

11.4 The filings for Transmission Tariff shall inter-alia contain but are not limited to the following:

- (a) The Transmission System or network usage forecast for each year of the Control Period, consistent with the Business Plan;
- (b) Proposals for transmission tariff design for each year of the Control Period, including the losses to be charged and the procedure thereof;
- (c) Proposal for reactive energy charges;
- (d) Expected Revenue from the Licensed Business, Non-Tariff Income and income from Other Business and other matters considered appropriate by the Transmission Licensee.

11.5 The petition for determination of tariff or SLDC charges shall be accompanied by information for the previous year, current year (RE) and the ensuing years of the entire control period.

Provided that the application shall be accompanied where relevant, by a detailed tariff revision proposal and how such revision would meet the gap, if any, in Aggregate Revenue Requirement for each year of the Control Period.

Provided further that the information for the previous year shall be based on audited accounts and in case audited accounts for previous year are not available, audited accounts for the immediately preceding year should be filed along with provisional books of annual (regulatory) accounts for the previous year adopted by the Board of Directors of the licensee company or SLDC, as the case may be.

11.6 The Transmission Licensee or SLDC as the case may be shall along with the aforesaid petition submit a statement on the status of compliance of directives, if any, issued by the Commission in its last tariff order.

11.7 The Commission may seek clarification and additional information on inadequacies in the application, if any, within 14 days or as may be practicable, of filing of the application for approval of the Business Plan and application for determination of tariff, as the case may be.

11.8 The Transmission Licensee shall respond within the next 10 days to the Commission with all clarification and information as required.

11.9 Upon receipt of a complete application accompanied by all requisite information, particulars and documents in compliance with all the requirements specified in these Regulations, the application for approval of the Business Plan and application for determination of tariff, as the case may be, shall be deemed to be received and The Commission shall admit the application for approval of the Business Plan and application for determination of tariff, as the case may be, within seven days or as may be required, of submission of response to the clarifications, if any, by the Transmission Licensee or SLDC, as the case may be.

11.10 The Commission or the Secretary or the designated Officer shall intimate to the applicant with the abridged form of application for publication of public notice in the daily newspapers. In case of non-submission or delay

in submission of additional information, the Commission may take suo-motu decision to formulate this abridged form of application as it deem appropriate.

11.11 The applicant shall, within three (3) days of the intimation given to him in accordance with Regulation 11.10, publish a notice inviting suggestions and objections from the public, in at least two (2) English and two (2) Hindi language daily newspapers widely circulated in the area to which the application pertains, outlining the proposed Business Plan or the proposed ARR and tariff, as the case may be, and such other matters as may be stipulated by the Commission.

Provided that the applicant shall make available a hard copy of the complete application, to any interested party, at such locations and at such rates as may be stipulated by the Commission:

Provided further that the applicant shall also put up on its internet website, in downloadable spreadsheet format showing detailed computations, the application made to the Commission along with all regulatory filings, information, particulars and documents in the manner so stipulated by the Commission:

Provided further that the web-link to the information mentioned in the second proviso above shall be easily accessible, archived for downloading and shall be prominently displayed on the applicant's internet website:

Provided also that the applicant may not provide or put up any such information, particulars or documents, which are confidential in nature, with the prior approval of the Commission.

Explanation – for the purpose of this Regulation, the term “downloadable spreadsheet format” shall mean one (or multiple, linked) spreadsheet software files containing all assumptions, formulae, calculations, software macros and outputs forming the basis of the application.

11.12 The procedural aspects pertaining to the Petition contained in this Regulation shall apply only to such an extent as may be required by the Commission having regard to the circumstances of an individual case, to,-

(a) a Petition filed by a Transmission Licensee under Section 36 of the Act;

(b) a Petition filed by the SLDC under section 32 of the Act

11.13 Notwithstanding anything contained in these Regulations, in case of delay/ non-submission of the application for approval of the Business Plan and application for determination of tariff, as the case may be, the Commission may initiate suo-motu proceedings mandating the filing of the said applications.

Provided that in the event of the licensee not filing the application despite the aforesaid proceeding, the Commission may on its own, decide the tariff based on previous year's tariff details and after incorporating suitable adjustments. However before issuing tariff order under such circumstances, comments/ suggestions/ objections from the public and stake holders including the licensee will be invited and same will be considered for the tariff order.

Provided further that the Commission may also pass directions under Section 129 and/or Section 142 of the Act, if required.

12. Order approving the Business Plan and Tariff Order

12.1 An Order approving with such modifications or such conditions as may be specified in that order or rejecting the Business Plan shall, as far as practicable, be issued before the filing of tariff petition separately or with the tariff order as the Commission may deem fit and practicable.

12.2 The Commission shall, within one hundred and twenty (120) days from receipt of a complete application for determination of ARR and tariff and after considering all suggestions and objections received from the public and after hearing all stakeholders and general public:-

- (a) issue a Tariff Order accepting the application with such modifications or such conditions as may be specified in that Order;
- (b) reject the application for reasons to be recorded in writing, if such application is not in accordance with the provisions of the Act and the Rules and Regulations made there under or the provisions of any other law for the time being in force:

12.3 An applicant shall be given a reasonable opportunity of being heard before rejecting its application referred to under regulation 12.1 and 12.2 above.

- 12.4 The applicant shall publish the tariff approved by the Commission within seven days of issue of tariff order in at least two (2) English and two (2) Hindi daily newspapers having wide circulation in the area of supply of the applicant and shall put up the approved tariff or charges on its internet website.
- 12.5 The tariff so published shall be in force from the date specified in the said Order and shall, unless amended or revised, continue to be in force for such period as may be stipulated therein.

13. True-Up and Annual Performance Review

The Commission shall True-Up expenses of the previous year either as part of the Tariff order or issue Order/s for True-Up of expenses preceding the Tariff order of ensuing year.

- (a) An order for True-Up of expenses shall be issued on annual basis.
- (b) An order for True-Up of expenses shall be on the basis of expense estimates made in the beginning of the year under consideration, actual expenses booked in the audited books of accounts of the Transmission Licensee or SLDC, as the case may be, for the year, and after prudence check of data by the Commission.
- (c) Where audited books of account are not available at the time of true-up, provisional books of annual (regulatory) accounts duly approved by the Board of Directors of the applicant company shall be used for the provisional True-up process.
- (d) The Commission shall undertake review of estimates of expenses for the current year as a part of the tariff order on the basis of the actual expenses incurred during the period April – September of the current year and corresponding figures in the order for Annual Revenue Requirement (ARR) of the current year approved by the Commission.
- (e) Estimates of expenses for the ensuing year shall be on the basis of corresponding figures in the order for True-up of expenses of the previous year and Annual Performance Review or Tariff Order of the current year, as the Commission may consider reasonable and deem fit.
- (f) Notwithstanding anything contained in regulation 4 of these Regulations, the Revenue gap/surplus arising out of Truing up shall be considered by the Commission while determining the ARR of ensuing year(s).While

approving adjustments towards revenue/expenses in future years, arising out of Truing up exercises, the Commission may allow the carrying costs as determined by the Commission of such expenses/revenues. However the revised estimated gap/surplus as a result of APR may or may not be passed in the ARR of ensuing year.

14. Adherence to Tariff Order

- 14.1 If a Transmission Licensee recovers a price or charge exceeding the tariff determined under Section 62 of the Act and in accordance with these Regulations, the excess amount shall be payable to the person who has paid such price or charge, along with interest equivalent to the Bank Rate of the Reserve Bank of India without prejudice to any other liability that may be incurred by such Transmission Licensee.
- 14.2 The Transmission Licensee shall submit periodic returns as may be required by the Commission, containing operational and cost data to enable the Commission to monitor the implementation of its Order.

PART-IV

NORMS OF OPERATION

15. Charges for Auxiliary Energy Consumption in the Sub – Station

The charges for auxiliary energy consumption in the Sub Stations for the purpose of air – conditioning, lighting, technical consumption etc shall be borne by the transmission licensee as part of normative operation and maintenance expenses.

Provided that for consumption in the Sub Stations for the purpose of air – conditioning, lighting, technical consumption etc., transmission licensee shall get an electric connection from the concerned distribution licensee and pay charges to the distribution licensee as per the applicable retail tariff.

16. Normative Annual Transmission System Availability Factor (NATAF):

- 16.1 The Normative Annual Transmission System Availability Factor for recovery of full transmission charges shall be as under:

(a) For full recovery of Annual Transmission Charges-		
(i)	AC System	98%
(ii)	HVDC System	95%

(b) For Incentive consideration-		
(iii)	AC System	99%
(iv)	HVDC System	96%

Provided that recovery of full annual transmission charges below the target availability shall be on a pro rata basis. At zero availability, no transmission charges shall be payable

16.2 The actual availability shall be calculated in accordance with the procedure provided in Appendix-II to these Regulations and shall be certified by the State Load Despatch Centre (SLDC) as per the format specified in **Appendix I** of these Regulations.

16.3 The Transmission Licensee shall be entitled to incentive on achieving annual availability beyond the target availability, in accordance with the following formula :-

$$\text{Incentive} = \text{Annual Transmission Charges} \times (\text{Annual availability achieved} - \text{Target Availability}) / \text{Target Availability};$$

Where,

Annual transmission Charges shall correspond to Aggregate Revenue Requirement for each year of the Control Period for the particular Transmission Licensee within the State:

Provided that no incentive shall be payable above the availability of 99.75 % for AC system and 98.5 % for HVDC system:

17. Quality of Supply

17.1 The Commission shall monitor the following Quality of Supply parameters during the Control Period:

- (a) Transmission System Availability
- (b) Transformer Failure,

18. Safety Standards

18.1 The Transmission Licensee shall develop a Safety Manual and follow procedures to maintain at least minimum safety standards during construction, operation, etc. in line with the provisions of Section 53 of the Act

19. Additional Capitalisation:

(1) The following capital expenditure which is within the original scope of work and actually incurred after the date of commercial operation and upto the cut-off date may be admitted by the Commission, subject to prudence check:

- (i) deferred liabilities
- (ii) works deferred for execution
- (iii) Initial spares shall be capitalised as a percentage of the Plant and Machinery cost upto cut-off date, subject to following ceiling norms:
 - a) Transmission line - 1.00%
 - b) Transmission Sub-station (Green Field) - 4.00%
 - c) Transmission Sub-station (Brown Field) - 6.00%
 - d) Series Compensation devices and HVDC Station - 4.00%
 - e) Gas Insulated Sub-station (GIS) - 5.00%
 - f) Communication system- 3.50%

Provided that once the project is commissioned, the cost of initial spares shall be restricted on the basis of plant and machinery cost corresponding to the project at the time of truing up.

- (iv) liabilities in connection with implementation of award of arbitration or compliance of the order or decree of a court, and
- (v) on account of change in law

Note: (a) original scope of work along with estimates of expenditure shall be submitted to the Commission along with application for tariff.

(b) a list of the deferred liabilities and works deferred for execution shall also be submitted along with the application for determination of tariff after the date of commercial operation of the transmission system.

(2) Subject to clause (3) of this regulation, the capital expenditure of the following nature actually incurred after the cut-off date may be admitted by the Commission, subject to prudent check.

- (i) deferred liabilities relating to work / services within the original scope of work
- (ii) liabilities in connection with implementation of award of arbitration or compliance of an order or decree of a court
- (iii) on account of a change in law, and