

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Dated: 30-12-2014

Present
Justice Sri. G. Bhavani Prasad, Chairman

Southern Power Distribution Company of Andhra Pradesh Limited
Eastern Power Distribution Company of Andhra Pradesh Limited

..... Applicants

On 29.12.2014, an application is filed on behalf of the above mentioned applicants under Clause 59 of the APERC (Conduct of Business) Regulations, 1999 for extension of time for filing their Aggregate Revenue Requirement (ARR), by relaxing the requirement of such filings within 120 days prior to issuance of Tariff Order by the Commission as stipulated in Clause 6.1 of the APERC (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 {Regulation No. 4 of 2005}. After careful consideration of the said application, the Commission passed the following:

ORDER

The Electricity Act, 2003 laid down in Section 62 that the appropriate Commission shall determine the tariff in accordance with the provisions of the said Act for supply of electricity by a generator for distribution, transmission, wheeling and retail sale of electricity. The appropriate Commission may require a licensee to furnish details as may be specified for the purpose and to comply with the specified procedure for calculating the expected revenues. A Tariff order will not ordinarily be amended more frequently than once in any financial year. Section 64 of the Electricity Act 2003, prescribed that an application for determination of tariff under Section 62 shall be made in the manner determined by the Regulations. The procedure prescribed by Section 64 for issuing a Tariff Order imposed a time limit of 120 days from the receipt of an application. The determination of Tariff is the first function to be discharged by a State Commission under Section 86 (1) of the Act. Section 181 of the Act enables the State Commission to make the necessary Regulations in this regard.

- 2) The Andhra Pradesh Electricity Reform Act 1998, the provisions of which, to the extent they are not inconsistent with the Electricity Act 2003, were saved by Section 185 (3) of the said

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Act of 2003 also made the State Commission responsible for the function of regulating the Tariff by Section 11 (1) (e) thereof. Section 26 of the State Act in Sub-Section 5 mandated the licensee to provide to the State Commission in the specified format full details of its calculation of the Expected Aggregate Revenue (EAR) at least 3 months before the ensuing financial year to enable the Commission to fix the Tariff. Sub-Section 9 also mandates the licensee to provide the details of the proposed Tariff at least 3 months before the proposed date for its implementation. Section 54 of the State Act gives the power to the State Commission to make necessary Regulations.

3) The APERC (Conduct of Business) Regulations 1999 prescribed in Regulation No.45-A, that a licensee shall file the relevant statements with the Commission as may be directed by the Commission each year.

4) Clause 6.1 of the Regulation No.4 of 2005 mandates filing of an application for approval of its Aggregate Revenue Requirement (ARR) in accordance with the guidelines issued by the Commission.

5) In O.P. No. 1 of 2011, the Appellate Tribunal for Electricity (ATE) in its order dated 11-11-2011 exhaustively reviewed the statutory provisions, the applicable Regulations and the case law, including the precedents from the Hon'ble Supreme Court and directed that every State Commission should endeavour to ensure that the Tariff for each financial year is decided before the 1st April of the Tariff year and also directed that in the event of delay in filing of ARR etc., one month beyond the scheduled date of submission of the petition, the State Commission must initiate *suo-motu* proceedings for Tariff determination in accordance with Section 64 of the Electricity Act 2003 read with Clause 8.1 (7) of the Tariff Policy. The judgment of the ATE continues to be in force.

6) The information gathered by the office of this Commission has revealed that in obedience to the directions of the ATE dtd.11-11-2011 in O.P. No.1 of 2011 and in discharge of their statutory functions and duties, the State Electricity Regulatory Commissions of Tamilnadu, Assam, Punjab, Jharkhand, Gujarat, Uttar Pradesh and Delhi passed orders determining the tariffs *suo-motu* in different Tariff years.

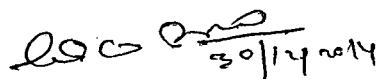
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7) While so, this Commission directed the licensees / applicants herein to file the ARR / tariff filings for Retail Supply Business by 30-11-2014, in accordance with the prescribed procedure. They were also informed that in the event of any delay in filing, the Commission will be compelled to initiate *suo-motu* proceedings for Tariff determination. However, citing different reasons, the licensees already approached this Commission twice for extension of time, which was considered and granted for the first time till 15-12-2014 and then till 30-12-2014.

8) Now both the licensees have come up again with the present request for further extension of time relying again on similar reasons. The request for further extension by the licensees has to be considered keeping in view the mandatory provisions of the statutes and Regulations, binding directions of the ATE and the interest of not only the licensees but also consumers and all other stakeholders. The constraints of time obligating this Commission to issue the Tariff Order for the Tariff year 2015-16 before the commencement of that Tariff year also have to be kept in view, more so in view of the unavoidable necessity to duly publish all relevant material for public information from time to time and giving every reasonable opportunity to all the stakeholders to object or represent in writing or in person, during public hearings and the need for the Commission and its office to make an in-depth study of all the aspects before coming to any conclusion.

9) Therefore, this Commission will commence necessary action for issuance of a Tariff Order for the Tariff year 2015-16 on 13-01-2015, Tuesday. The licensees are given one more opportunity to file their ARR / Tariff petitions relating to Retail Supply Business for the financial year 2015-16 till 5.00 pm on 12-01-2015, Monday. In default of such filing and furnishing of the required data / information, the Commission will proceed to take further steps to facilitate issuance of a *suo-motu* order in accordance with law within the available time frame of 78 days as against 120 days made available to the Commission by the statute.

This order is corrected and signed on this 30th day of December, 2014


(JUSTICE G. BHAVANI PRASAD)
CHAIRMAN