



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

TUESDAY, THE 28TH DAY OF MARCH

TWO THOUSAND AND TWENTY THREE

(28.03.2023)

Present

Justice C.V. Nagarjuna Reddy, Chairman

Sri P. Rajagopal Reddy, Member

Sri Thakur Rama Singh, Member

In the matter of fourth amendment to the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005.

(Regulation 2 of 2023)

Introduction

The Commission has decided to amend the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation No.4 of 2005) and accordingly placed a Public Notice along with a copy of the draft amendment on its website on 10.02.2023 inviting comments/suggestions/objections from all the stakeholders and interested parties on the draft amendment, if any, to be sent by email to commn-secy@aperc.in or by post to the Commission's office at Hyderabad so as to reach the Commission Secretary on or before 25th February 2023 for consideration by the Commission. In response, the Commission received five sets of comments/suggestions/objections on the draft amendment. Before finalizing the amendment, the Commission considered all the comments/suggestions/objections received on the draft amendment. The following paras discuss the comments/suggestions/objections received on the draft amendment and the Commission's analysis and decisions on the same. The list of objectors is shown in Annexure-I and the finalized Regulation is shown in Annexure-II.

Views/suggestions/objections received and Commission's analysis and decisions on the same

Sri S. Surya Prakasa Rao/former Secretary/APERC

- A. Rule 14 (Timely recovery of power purchase costs by distribution licensee) of the Electricity (Amendment) Rules, 2022 notified by the Central Government in exercise of the general rule-making power under section 176(1) is ultra vires of the Electricity Act, 2003 as there is no specific 'enabling provision' in the Act to make Rules in tariff matters as the same are entrusted to the Jurisdiction of Commissions under the said Act. Therefore, the Commissions are not bound by the above Rule and the observations of the Hon'ble Supreme Court at paras 37 and 38 of its judgement dated 15-3-2010 in the PTC vs CERC case support the above view.

Commission's analysis and decision: Though the extant Rules framed by the GOI appear beyond the rule making power of the Central Government, the Commission finds rationale in the Rule relating to FPPCAI as its implementation would lead to avoiding delays in the pass-through of variations in power purchase costs thereby helping the Distribution Licensees to improve their cash flows and also avoid tariff shocks to the consumers. The inadequate cash flow situation adversely affects the Distribution Licensees' ability to render effective services to the consumers in areas such as releasing new services and extending safe, reliable and quality supply. Further, if the FPPCAs are negative, the benefits are passed on to the consumers early. Therefore, keeping the above in view and also the directions of the Hon'ble APTEL in its judgement dated 11.11.2011 in OP No 1 of 2011 to prefer adjustments of variations in power purchase costs on a monthly basis, the Commission proposed the amendment.

- B. The periodicity of adjustments of variations in power purchase costs should be as minimum as possible in a financial year in the normal course in order to reflect the spirit of section 62(4) of the Electricity Act, 2003 which specifies that no tariff or part of any tariff may ordinarily be amended more frequently than once in a financial year except in case of Fuel Surcharge. Therefore, the existing quarterly adjustment system is fair and reasonable and is in line with the spirit of the said section. Further, quarterly adjustment is being followed by all the State Commissions in the country except MERC as per data given in the MOP letter dated 09.11.2021

Commission's analysis and decision: The Commission has already stated the reasons supra for switching over to the monthly adjustments of power purchase costs variations

instead of on a quarterly basis as per the extant Regulation. Moreover, even though the adjustments are supposed to occur every quarter under the extant Regulation, the filing of proposals by the Distribution Licensees after a period of two to three months after the elapse of a quarter, the seeking of further data by the objectors from the Distribution Licensees and the scrutiny by the Commission of the voluminous data filed by the Distribution Licensees are causing inevitable and inordinate delays in determining the Fuel and Power Purchase Cost Adjustments much beyond the quarter under consideration exacerbating the cash flow situation of the Distribution Licensees further. Further, section 62(4) does not specify any minimum/maximum periodicity for revision of tariff on account of Fuel surcharge. If the argument that 'quarterly adjustment is fair and reasonable is accepted, it would result in the revision of tariff four times a year which would also be against the spirit of section 62(4) of the Electricity Act, 2003 as contended by the objector.

- C. Section 62(4) of the Electricity Act, 2003 may not enable the Commissions to dispense with the procedure specified under section 64 of the Act and allow automatic pass-through of FPPCA on a monthly basis. The Hon'ble Supreme Court held in its judgement dated 05.07.2016 in the FSA case that Fuel Surcharge is part of the Tariff. Therefore, it follows that 'Fuel Surcharge Adjustment' amounts to the periodical amendment to the tariff which attracts the procedure specified under section 64.

Commission's analysis and decision: The proposed monthly automatic pass-through of FPPCA is provisional in nature like the provisional tariff being allowed by the Commission in respect of generating stations until the Commission determines their final tariffs. In the matter of FPPCA also, the Commission will determine the final FPPCA for the entire year in the true-up exercise as specified in the draft amendment. It may also be noted that the Hon'ble Supreme Court in its judgement dated 05.07.2016 in the FSA case laid down that fuel surcharge has to be calculated strictly within the framework of the formula provided in tariff notification. It was also held that fixing fuel surcharge cannot be equated with fixing rates of consumption charges (tariffs) or guaranteed charges or fixed charges or the delayed payment surcharge.

- D. The automatic recovery proposal may not be in compliance with section 61(d) of the Electricity Act, 2003 which specifies safeguarding consumers' interest and at the same time recovery of the cost of electricity in a reasonable manner. The proposed automatic pass-through stifles the spirit of the regulatory process.

Commission's analysis and decision: As already stated supra, the monthly automatic pass-through of FPPCA is only provisional in nature and the Commission will determine the final FPPCA for the entire year after carrying out prudent checks. Further, if the Distribution Licensees recover the FPPCA during the year that is over and above the actuals, they will have to refund the excess FPPCA along with the carrying cost to the consumers. Therefore, the automatic pass-through proposal is in compliance with provisions specified under section 61 (d).

- E. The order of the Hon'ble APTEL indicating its preference for monthly adjustment is not mandatory.

Commission's analysis and decision: The order of the Hon'ble APTEL is one of the factors based on which the Commission took a decision to introduce monthly automatic pass-through of FPPCA. The main reason for adopting the monthly automatic pass-through of FPPCA is it provides immediate relief of adjustment of fuel and power purchase cost to both the Distribution Licensees and the consumers.

- F. What are the factors that are contributing to the delays in the determination of quarterly FPPCA and whether they can be avoided with appropriate measures? If the delays are attributable to the Distribution Licensees, it is not fair to reward the defaulters with automatic monthly recovery bypassing the regulatory process.

Commission's analysis and decision: The Commission already stated the reasons for the inordinate delays in the determination of quarterly FPPCA and practically speaking the delays cannot be avoided. As regards rewarding the Distribution Licensees, it may be noted that there is a provision in the extant Regulation which specifies that failure on the part of Distribution Licensees to file FPPCA proposals within the stipulated time will result in the forfeiture of the upward revision of FPPCA claims for that quarter. This provision discourages the Distribution Licensees from filing the FPPCA proposals beyond the stipulated time. Therefore, the question of rewarding the Distribution Licensees as contended by the objector does not arise.

- G. The adverse impact of the difference in working capital requirement between quarterly and monthly recovery can be offset by allowing working capital in the O&M charges.

Commission's analysis and decision: The O&M charges as a part of the Distribution Tariff are determined by the Commission for a five-year control period before the commencement of the control period. Therefore, it is not possible to calculate in advance the additional working capital required to offset the impact of the monthly recovery of

FPPCA. Further, even if the Commission allows the additional working capital, the Distribution Licensees may not be in a position to get the required working capital loans due to their poor credit ratings on account of their precarious financial position. Even if they somehow are able to get the loans, the loans will carry high-interest rates which ultimately have to be passed on to the consumers.

- H. What's the safeguard to consumers if any Distribution Licensee makes excess recovery inadvertently or willfully?

Commission's analysis and decision: There are enough safeguards in the draft Regulation which discourage the Distribution Licensees from claiming FPPCAs higher than the actuals. The first one mandates the Distribution Licensees to submit exhaustive details of the monthly FPPCA claims to the Commission and also place them on their websites to enable the Commission and the public to cross check their claims. The second one is that the automatic recovery is restricted to a specified ceiling rate. The third one is that the Distribution Licensees are required to pay interest to the consumers on the excess FPPCA recovered during the year at 1.2 times the carrying cost rate approved by the Commission.

- I. What are the checks against a likely future scenario of Fuel (coal) suppliers, generating companies and Distribution Licensees being sister concerns of the same group company and resorting to 'gaming'?

Commission's analysis and decision: As the Commission will undertake prudent checks on the details submitted by the Distribution Licensees including the details of fuel costs, fixed costs of the generator, etc., at the time of yearly true-up of FPPCA, any attempt to resort to gaming will be thwarted by the Commission.

- J. Sub-clause 12.5(F) of the draft specifies timelines for annual true-up which end by September of next year. With the likely delays in filing the true-up claims, the actual true-up may happen at the end of next year. Whether it's necessary to subject Crores of consumers to the risks and inconvenience of delayed true-up after about two years which is prejudicial to consumers' interest mandated under section 61(d) of the Electricity Act, 2003?

Commission's analysis and decision: There is no basis for the contention that the true-up will take two years as the Distribution Licensees are mandated to file the yearly true-up of their FPPCA for any financial year by the end of June of the next financial year.

The draft is modified such that the licensee shall forfeit its right to recover the costs if True up petition is not filed as per the timelines stipulated. The timelines are also stipulated for passing the annual FPPCA order by the Commission. Further, since there will be an automatic pass-through of FPPCA amounts every month, the burden on the Distribution Licensees/consumers (depending on whether the FPPCA is to be refunded to /recovered from the consumers) at the time of yearly true-up will not be significant. As a result, the consumer's interests will not suffer.

- K.** Sub-clause 12.5 (B) of the draft provides for forfeiture of the FPPCA claims if they are not filed within the specified timelines. It is vague, arbitrary, unfair and prone to litigation as happened in the past. The Commission may ensure that this sub-clause doesn't give scope to avoidable litigation.

Commission's analysis and decision: If there is no forfeiture clause, the Distribution Licensees will likely submit their proposals well beyond the specified timelines which defeats the very purpose of introducing monthly FPPCA.

- L.** Sub-clause 12.5(J) of the draft requires the Distribution Licensees to publish the FPPCA charges in newspapers before recovery, but no timelines for publication have been specified in the draft. Therefore, the Commission may specify the timelines for the publication of FPPCA charges.

Commission's analysis and decision: Though the draft Regulation proposed publication of the abstract of the monthly FPPCA in the newspapers, the Commission has since then reconsidered the same in view of the additional expenditure the Distribution Licensees have to incur for the publication which ultimately imposes additional financial burden on consumers. Therefore, the Commission decided against the publication of the abstract of the monthly FPPCA in the newspapers. Accordingly, the Commission amended the draft appropriately to provide for the placing of the details of FPPCA by the Distribution Licensees on their websites (which has a wider reach compared to the publication in the newspapers) before the FPPCA amounts are raised in the monthly CC bills of the consumers.

- M.** Since this matter relates to tariffs, the Hon'ble Commission may conduct a public hearing before finalizing the draft regulation. CERC follows the procedure of public hearings in making tariff regulations and also issues Explanatory Memorandum along with a draft publication and also provides a Statement of Reasons along with the final notification.

Commission's analysis and decision: For a wider reach, the Commission has placed the draft Regulation on its website inviting views/objections/suggestions from all the stakeholders including the general public also. Placing the draft Regulation on the Commission's website is enough to meet the requirements of transparency, accountability and public participation. The interested persons, instead of participating in the public hearing to air their views which requires them to travel to the place of hearing, which is not only expensive, and stressful but also time-consuming, could easily send their views/objections/suggestions through email which is a far easier process. Further, as per the Electricity (Procedure for Previous Publication) Rules, 2005 notified by the GoI, it is not mandatory to conduct public hearings while making Regulations by the Commission. As per the above Rules, the Commission, before finalising a Regulation, shall publish the draft Regulation in such manner as it deems to be sufficient along with a notice specifying a date on or after which the draft will be taken into consideration and that the Commission shall consider any objection or suggestion which may be received by it from any person with respect to the draft before the date so specified. Moreover, as per the APERC Conduct of Business Regulations, 1999 as amended from time to time, any notice or process to be issued by the Commission may be served by various modes including by publication on its website. The Commission has complied with the above requirements. As regards the Explanatory Memorandum and the Statement of Reasons, the Commission already stated the reasons for the amendment in the draft Regulation and is also issuing a Statement of Reasons along with the finalized Regulation.

- N. If automatic monthly adjustment is considered expedient for any reason, a committee comprising of representatives from consumers (affected parties), Distribution Licensees and the Commission may examine the relevant data mentioned in Sub-clause 12.5 (E) and report its observations to the Commission. The recovery by Distribution Licensees may be allowed only after the Commission is satisfied that there are no formidable objections by the committee.

Commission's analysis and decision: Scrutiny by the Committee will delay the process of adjustment of FPPCA which the Commission is trying to avoid through this Regulation. As already stated supra, there are enough safeguards in the Regulation to prevent the Distribution Licensees from claiming excess monthly FPPCA and the Commission will anyway true-up the FPPCA claims at the end of the year after prudent checks. Therefore, the Commission is not inclined to accept the suggestion.

Sri Ch. Baburao/State Secreteriat Member CPI(M) and Sri M. Venugopla Rao/Convener/Center for Power studies

- O. In case the FPPCA recovered by the Distribution Licensees from the consumers during the year is more than what is due and if the Distribution Licensees do not submit their applications for truing down, 'what would be the position' is not made clear in the proposed amendment. Therefore, the Commission may incorporate appropriate clause to address such a situation and protect the interests of the consumers.

Commission's analysis and decision: The Commission can initiate action against the Distribution Licensees under section 142 read with section 146 of the Electricity Act, 2003 for their failure to comply with the Regulations notified by the Commission. The draft is suitably modified considering the suggestion.

- P. The Commission may incorporate in the proposed amendments that the final determination of FPPCA would be done after holding a public hearing.

Commission's analysis and decision: After calling for written objections from the general public, and after consideration of the same, the Commission will issue a final order. Accordingly, the draft is modified.

- Q. When tariff revision is being effected, after holding public hearings, the moot point that would arise is whether it is desirable or proper to allow the Distribution Licensees to pass through FPPCA amount not exceeding/up to 50 paise per unit or FPPCA amounts far exceeding the total impact of tariff revision for the FY concerned, without prior approval of the Commission and without periodical review and determination of FPPCA, at least, on a quarterly basis, and without holding a public hearing. The proposed automatic pass-through stifles the spirit of the regulatory process.

Commission's analysis and decision: The Hon'ble Supreme Court in its judgment dated 05.07.2016 in the FSA case of APDistribution Licensees held that fixing fuel surcharge cannot be equated with fixing rates of consumption charges or the guaranteed charges or the fixed charges or the delayed payment surcharge. The monthly collection/refund of FPPCA is only provisional subject to final true up/down by the Commission. Further, adequate provisions are incorporated in the Regulation to balance the interest of Distribution Licensees and the general public. It will not stifle the spirit of the regulatory process as contended.

- R. To be fair, for the supply of power exceeding the quantum determined by the Commission in the retail supply tariff order to fully subsidised agricultural consumers, the cost of power

exceeding that limit plus additional cost for supply of quantum of power determined by the Commission should be collected from the GoAP. For this purpose, the Distribution Licensees have to show invariably the total supply of power and excess supply of power made to fully subsidised agricultural consumers and work out and claim the FPPCA amounts separately from the GoAP. The Distribution Licensees have to invariably deduct the quantum of supply of power to fully subsidised agricultural consumers from their total sales and deduct the cost of power purchased and supplied to them from the total cost of power purchased for all consumers and then work out FPPCA per unit to non-agricultural consumers for the power supplied to them to avoid the imposition of the burden on them of additional expenditure incurred by the Distribution Licensees for purchasing and supplying power to agricultural consumers exceeding the limit determined by the Commission.

Commission's analysis and decision: It is intended to collect the FPPCA charges uniformly from all categories of consumers. In any case, there will not be a burden on other categories due to variations in sales of free power categories. For the scenario contended by the objector, the following illustration shows that the FPPCA works out to the same with the inclusion/exclusion of agricultural sales in total sales, and hence there will not be a burden on other categories even if agricultural sales exceed the permitted level in tariff order.

As per Tariff Order			
Sl.No.	Item		
1	Total Sales	100	units
2	Agricultural sales	20	units
3	Other categories	80	units
4	PP cost	100	Rupees
5=(4)/(1)	PP cost per unit	1	Rupee

FPPCA computation including Agricultural consumption			
Sl.No.	Item		
1	Total Actual Sales	105	units
2	Actual agricultural sales	25	units

	(Exceeded TO quantity by 5 units)		
3	Actual sales of other categories	80	units
4	Total Actual PP cost	110	Rupees
5=(4)/(1)	Actual PP cost per unit	1.05	Rupees
6	PP cost per unit as per RST Order	1.00	Rupee
7= (5)-(6)	FPPCA per unit applicable to all categories	0.05	Rupee

FPPCA computation excluding Agricultural consumption			
Sl.No.	Item		
1	Total Actual Sales excluding Agricultural consumers	80	units
2	Actual PP cost corresponding to total sales excluding agricultural consumption	83.81	Rupees
3=(2)/(1)	Actual PP cost per unit	1.05	Rupees
4	PP cost per unit as per RST Order	1.00	Rupee
5=(3)-(4)	FPPCA per unit	0.05	Rupee

However, as provided in the draft regulation, the final true up /down will be done in respect of variation in sales of agricultural consumers under the free power category at the end of the financial year. Accordingly, the Distribution Licensees will raise the additional subsidy on the GoAP if the sales exceed the permitted level in Tariff Order.

Sri R. Shivkumar/AP Textile Mills Association

- S. Unless there is a similar regulatory oversight on all the entities across the supply chain such as APGENCO and APTRANSCO, Distribution Licensees will find it difficult to implement the Regulation without default.

Commission's analysis and decision: The Commission is already exercising regulatory oversight over APTRANSCO, a regulated entity, through various Regulations and directions. Though APGENCO is a non-regulated entity, the Commission, in order to protect the interests of the consumers, is issuing several directions to it in the MYT orders and is also regularly monitoring the performance of its generating stations.

- T. The unregulated entities in the supply chain like Coal India & Railways should be mandated to give the invoices and supporting data such as calorific value, moisture content and ash % in time. If this data is not furnished, Distribution Licensees and their consumers will be at the receiving end.

Commission's analysis and decision: The entities Coal India & Railways are not regulated by the Commission. The Distribution Licensees shall provisionally admit the monthly bills of Gencos subject to final correction, and the final data shall be published separately on their websites on receiving the final bills with full details from the Generators.

- U. Since about 30% of Tariff cost is contributed by thermal power, the Commission may consider Rs.0.35/unit as the provisional FPPCA rate instead of Rs.0.50/unit as proposed in the draft.

Commission's analysis and decision: To balance the interest of consumers and the licensees, the Commission modified the ceiling price of FPPCA to 40 paise per unit in the final regulation.

Chief General Manager/IPC & RAC/APSPDCL

- V. The Regulation may be amended appropriately to explicitly specify that it is applicable for the monthly power procurement with effect from 1st April 2023.

Commission's analysis and decision: The draft Regulation clearly states that it shall come into force with effect from 01.04.2023 which means that it is applicable to the power procurement commencing from 01.04.2023. Therefore, there is no need for any amendment in this regard.

- W. If the ceiling rate is imposed on true-up to be levied, the same rate may be made applicable for true-down also, in case it arises.

Commission's analysis and decision: The draft already provides a ceiling rate for both true-up and true-down amounts.

- X. Flexibility may be provided to the Distribution Licensees for non-refund of true-down amounts under force majeure conditions.

Commission's analysis and decision: The Distribution Licensees can approach the Commission for necessary relief in case of force majeure conditions on a case-to-case basis.

- Y. By the time the audit of Distribution Licensees' accounts is completed, and the CAG issues the audited certificate, it will be almost the end of October. Therefore, the

Commission may fix the end of September as the deadline for submitting the true-up of FPPCA for the previous FY.

Commission's analysis and decision: The Commission is not inclined to accept the request as extending the time for filing the true-up of FPPCA to the end of September will delay the process abnormally and will defeat the very objective of the timely pass-through of variations in Fuel and Power Purchase Costs as envisaged in this Regulation. The Distribution Licensees may file the PP Costs duly certified by the statutory auditors without waiting for CAG's audit.

- Z.** If part of the FPPCA of the present month is included in next month's bill, it will be based on next month's consumption which is not correct. Further, new consumers who are added in the present month will have to pay a part of the FPPCA pertaining to the previous month, which is not reasonable. Therefore, the Commission may dispense with the system of carrying forward a part of the FPPCA of a month to the subsequent month(s).

Commission's analysis and decision: The draft regulation is modified to address the issue as per which cost in excess of the ceiling limit will be trued up at the end of the year, without carry forward to the subsequent months.

- AA.** Carrying costs should be allowed on the under-recovery of the monthly FPPCA due to the ceiling rate at the time of true-up.

Commission's analysis and decision: The draft already allows carrying cost on part of the FPPCA of a month, and further modified to allow the carrying cost on under recovery of costs also.

Sd/-
Thakur Rama Singh
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
P. Rajagopal Reddy
Member

ANNEXURE - I

S.No.	Name of the Objector Sri/Smt.
1	M. Venugopala Rao, Senior Journalist & Convener, Centre for Power Studies, H.No.1-100/MP/101, Monarch Prestige, Journalists' Colony, Serilingampally Mandal, Hyderabad - 500 032
2	Ch.Babu Rao, CPI(M) State Secretariat Member, Andhra Pradesh Committee, H.No. 27-28-12, Yamalavari Street, Governorpet, Vijayawada - 520 002.
3	R. Shivakumar, AP Textiles Mills Association
4	S.Surya Prakasa Rao, Former Director (Commercial), erstwhile APCPDCL and Former Secretary erstwhile, APERC, Flat. No.105, Ashok Chandra Enclave, 11-4-660, Redhills, Hyderabad-500004.
5	The Chief General Manager, IPC & RAC, APSPDCL, Corporate Office, Tirupathi, Andhra Pradesh

ANNEXURE - II

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION [Regulation 2 of 2023] FOURTH AMENDMENT TO THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF TARIFF FOR WHEELING AND RETAIL SALE OF ELECTRICITY) REGULATION, 2005.

Introduction

The erstwhile APERC (Andhra Pradesh Electricity Regulatory Commission) of the undivided Andhra Pradesh State notified the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Regulation, 2005 (Regulation No.4 of 2005) (hereinafter referred to as 'the Principal Regulation') which was published in the AP Extraordinary Gazette on 14.11.2005. The first amendment to the Principal Regulation was notified by the erstwhile APERC in the AP Extraordinary Gazette on 07.03.2014 (vide Regulation No.1 of 2014).

And the newly constituted APERC for the State of Andhra Pradesh, which came into existence w.e.f. 01.08.2014 post bifurcation of the undivided AP State, adopted the above Regulations, among others, vide APERC (Adaption) Regulation, 2014 (Regulation No.4 of 2014). Subsequently, the new APERC notified the second amendment to the Principal Regulation in the AP Extraordinary Gazette on 02.07.2021 (vide Regulation 4 of 2021) and a third amendment to the Principal Regulation in the AP Extraordinary Gazette on 29.04.2022 (vide Regulation 2 of 2022).

The Hon'ble APTEL in its Order dated 11.11.2011 in OP No 1 of 2011 held that Fuel and Power Purchase Cost is a major expense of the distribution Company which is uncontrollable and directed the State Commissions to put in place a mechanism for Fuel and Power Purchase Costs Adjustment in terms of Section 62 (4) of the Act, preferably on a monthly basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. The extant Regulation allows Distribution Licensees to recover the Fuel and Power Purchase Costs Adjustment on a quarterly basis. However, due to the regulatory process, it is getting delayed. The Government of India issued the Electricity (Amendment) Rules 2022 on 29.12.2022. Under these Rules, the impact in the cost due to variations in fuel cost and power purchases shall be automatically

passed through in the consumer tariff, on a monthly basis, and on a methodology and formula specified by the Appropriate Commission. The Rules also specify that such monthly automatic adjustment shall be tried up on annual basis. Though the Rules do not per se bind it, the Commission felt that changing the method of recovery of FPPCA as proposed in the amendment ensures timely recovery of additional fuel and power purchase expenses incurred by the Distribution Licensees on the one side and avoids tariff shocks to the consumers on the other side.

Therefore, in order to comply with the directions of Hon'ble APTEL and align with the Government of India Rules, the Commission has decided to amend the Principal Regulation appropriately. Accordingly, the Commission placed a Public Notice along with a copy of the draft amendment on its website on 10.02.2023 inviting comments/suggestions/objections from all the stakeholders and interested parties on the draft amendment, if any, to be sent by email to commn-secy@aperc.in or by post to the Commission's office at Hyderabad so as to reach the Commission Secretary on or before 25th February 2023 for consideration by the Commission. In response, five sets of comments/suggestions/objections were received on the draft amendment. The comments/suggestions/objections received on the draft amendment, the list of objectors and the Commission's analysis and decisions on the comments/suggestions/objections received are covered in the 'Statement of Reasons' issued by the Commission separately.

The Commission after considering all the comments/suggestions/objections received and in exercise of the powers conferred on it under sub-sections (zd), (ze), and (zf) of Section 181(2) read with Sections 61, 62 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, hereby amends the Principal Regulation as under:

1. Short title, Extent, and Commencement

- i. This Regulation may be called the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Fourth Amendment Regulation, 2023.
 - ii. This Regulation shall extend to the whole of the State of Andhra Pradesh.
 - iii. This Regulation shall come into force with effect from 01.04.2023.
- 2. With the coming into effect of this Regulation, the Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Wheeling and Retail Sale of Electricity) Second Amendment Regulation, 2021 (Regulation 4 of 2021) and Third Amendment Regulation, 2021 (Regulation 2 of 2022) stand repealed with effect**

from 01.04.2023. However, the actions taken/to be taken, and orders passed earlier under the existing clause "FPPCA" of the regulations mentioned above are not affected, and are saved.

3. Sub-clause 12.4 in the Principal Regulation shall be substituted with the following:

"The Distribution Licensee shall be entitled to recover from or refund to the consumers, as the case may be, the FPPCA (Fuel and Power Purchase Cost Adjustment) according to the formula and other conditions specified in this regulation on a monthly basis automatically from time to time and such monthly automatic adjustment shall be trued up on an annual basis by the Commission".

4. The following sub-clause 12.5 shall be added after sub-clause 12.4 in the Principal Regulation.

"12.5. FPPCA (Fuel and Power Purchase Cost Adjustment)

The formula for FPPCA as under

$$\text{FPPCA} = (\text{APPC} - \text{BPPC}) / [1 - (\text{Loss in \%} / 100)]$$

Where,

FPPCA = Fuel & Power Purchase Cost Adjustment in Rs/unit up to 4 decimal places

APPC = The actual weighted average power purchase cost per unit of energy, which shall be arrived at as the actual total power purchase cost (including the transmission & scheduling costs) in Rs. Million for the month for which the Distribution Licensee is recovering 'FPPCA' automatically divided by the actual quantum of power purchases in Million Units made by the Distribution Licensee from the sources approved by the Commission for that month.

BPPC = The base weighted average power purchase cost per unit of energy, which shall be arrived at as the total power purchase cost approved by the Commission in Rs. Million (including the transmission & scheduling costs) in the RSTO (Retail Supply Tariff Order) for the month for which the Distribution Licensee is recovering 'FPPCA' divided by the total quantum of energy in Million Units approved by the Commission in the RSTO for the Distribution Licensee for that month.

Loss in % = The weighted average Transmission and Distribution losses (%) approved by the Commission for the Distribution Licensee for the financial year (n) in which the Distribution Licensee is recovering 'FPPCA' or actual weighted average Transmission and Distribution losses (%) of the previous year (n-1) for that Distribution Licensee, whichever is lower.

Manner of recovery or refund of FPPCA by the Distribution Licensee and conditions:

A. *The FPPCA arrived at as per the above formula shall be recovered from or refunded to the consumers by the Distribution Licensee, as the case may be, on a monthly basis automatically not exceeding 40 paise per unit.*

Explanation: FPPCA Surcharge shall be computed and charged by the Distribution Licensee, in (n+2)th month, on the basis of actual variations in the costs of fuel and power purchase and intra & inter- state Transmission Charges for the power procured during the nth month.

*For example, the FPPCA surcharge on account of changes in tariff for power supplied during the month of April of any financial year shall be computed and billed in the month of June (**CC Bill to be issued in June**) of the same financial year.*

B. *In case the Distribution Licensee fails to compute and charge FPPCA surcharge within the timeline, as specified above, except in case of any force majeure condition, its right to recover costs up to 40 paise on account of FPPCA surcharge for that month shall be forfeited and, in such cases, the right to recover the FPPCA up to 40 paise for that month in annual true-up shall also be forfeited. However, in case of true-down, if any, the Distribution Licensees shall pay to the consumers by way of adjustments in future CC bills as determined by the Commission in the final FPPCA order at the end of the financial year.*

C. *If the total FPPCA surcharge for a Billing Month exceeds 40 paise per unit, such an excess amount with carrying cost at the rate of State Bank of India Marginal cost of Funds-based lending Rate plus one hundred and fifty basis points shall be collected in a manner specified by the Commission in the final true-up Order for that financial year. In respect of any past claim that is admitted during the month exceeding 100 Crores, such claims may be spread over a period such that the EMI including the carrying cost of the past claim does not exceed 100 crores per month.*

D. *The FPPCA surcharge so computed for any month, or the fuel and power purchase cost variations for every month irrespective of recovery shall be submitted in the format specified in this Regulation along with actual category-wise sales vis-a-vis approval, and source-wise despatch & cost vis-a-vis approval with a detailed explanation, availability and PLF of each source, market purchases with detailed break up of segments (RTC, morning peak, evening peaks and night) exchange*

wise, Deep e- bidding portal, swapping, etc, PoC charges break up for scheduled CGS, market purchases and other approved sources, the past claims of any source, if any, with specific mention, backing down of thermal sources on account of RE and other reasons, if any, loss percentages, etc., by the end of the month during which FPPCA recovery is effected (for the 'n' th month variations, by the end of (n+2) month). The reports so submitted to the Commission shall be made available on the website of the Distribution Licensee under FPPCA heading in the Regulatory Compliance tab. The final true-up of the FPPCA surcharge for any financial year shall also be submitted in the same format along with the details mentioned above.

- E. The final true-up of FPPCA surcharge for any financial year shall be submitted by the end of June 30 of the next financial year, and the Commission will issue a final order within 90 days from the date of filing of such annual true-up after calling for written objections from the general public, and after consideration of the same. If the licensee fails to file the final true-up by the end of June 30, its right to recover costs on account of the FPPCA surcharge for that year shall be forfeited and the FPPCA costs already recovered in the monthly bills shall be refunded by way of adjustment in future monthly cc bills. However, the Commission will initiate proceedings suo motu to pass on the true down if any.
- F. In case of excess revenue recovered for the year against the FPPCA, the same shall be recovered from the licensee at the time of the final true-up of that financial year along with its carrying cost to be charged at 1.20 times the carrying cost rate approved by the State Commission. Similarly, if any under-recovery, the carrying cost shall be allowed.
- G. The Distribution Licensee shall pass through the FPPCA uniformly on all categories of consumers existing in that month based on their consumption(kWh/kVAh). The Distribution Licensee may likely under-recover or over-recover costs due to variations in sales, losses, etc, with reference to approval in Tariff Order as per the FPPCA formula. In the event of over-recovery of costs as per the formula, the Distribution Licensee shall limit the FPPCA amount to the actual variation of power purchase costs with reference to the Tariff Order by suitably correcting the FPPCA per unit. Similarly, in the event of an under-recovery of costs, the FPPCA per unit shall be suitably corrected to equate the FPPCA amount to the actual variation in power purchase cost with reference to the Tariff Order of that month. To arrive at the power

purchase costs variation, the least of the following power purchase quantity is to be considered.

- i. The actual power purchase quantity procured by the licensee for its consumers*
- ii. Power Purchase quantity computed based on the actual sales by grossing up with actual losses or approved losses for that relevant year in RST Order, whichever is lower.*

- H. As power purchases are being done for all three licensees together, the actual PP cost shall be shared in the ratio of actual power drawn by each licensee at the end of each month to not have much variance in the FPPCA of each licensee.*
- I. The Distribution Licensee shall raise the FPPCA bills on the Government in respect of the consumers who are provided 100 percent tariff subsidies under Section 65 of the Electricity Act, 2003. The subsidy true-up/down on account of variations in the sales of agricultural consumers under the free power category will be done after the end of the financial year during the final true-up of FPPCA.*
- J. The Distribution Licensee shall place on its website the details/gist of the FPPCA computed every month before the FPPCA amounts are raised in the monthly CC bills of the consumers for information and wider reach of the public.*
- K. To ensure smooth implementation of the FPPCA surcharge mechanism and its recovery as per this Regulation, the Distribution Licensee shall ensure that its billing system and power procurement software and systems are updated.*
- L. The Commission, suo motu, or an application from the licensee, may review or add or amend or alter any of the above clauses and pass appropriate orders to remove any difficulty in the implementation of these clauses.*

(BY ORDER OF THE COMMISSION)

Sd/-

Commission Secretary(i/c).

Hyderabad

28.03.2023.

FORMAT

S . N o .	Gener ating Statio n / Stage/ Source	Pl an Ca pa ci ty (M W)	D i s c o m ' s S h a r e (%)	Energy(MU)			Cost Components (Rs. Millions)																	
				T O (a)	A c t u a l (b)	V a r i a n c e (c) = (b - a)	Fixed			Variable			Incentive			Income Tax			Others			Total		
							(A)			(B)			(C)			(D)			(E)			F=(A+B+C+D+E)		
							T O (d)	Actu al (e)	Variance (f)= (e - d)	T O (g)	Actua l (h)	Variance (i)= (h - g)	T O (j)	Actua l (k)	Variance (l)=(k - j)	T O (m)	Actual (n)	Variance (o)= (n - m)	T O (p)	Actual (q)	Variance (r)= (q - p)	T O (s)	Actual (t)	Variance (u)= (t - s)
1	X																							
2	Y																							
3	Z																							
-	Trans missi on Cost																							
-	LDC Costs																							
	Past claim s/ refun ds, if any, pertai ning to the mont h(s) prior to the mont																							

[illegible]