

# **Uttarakhand Electricity Regulatory Commission**

**Institution of Engineers (I) Building, 1<sup>st</sup> Floor, Near ISBT, Majra, Dehradun**

## **Notification**

March 11, 2008

**No. F-9(20)/RG/UERC/2008/1195** In exercise of powers vested under section 181 read with Sections 61, 62 and 86 of the Electricity Act, 2003 and all powers enabling it in that behalf, the Uttarakhand Electricity Regulatory Commission hereby makes the following Regulations for specifying the terms and Conditions for truing up of Tariff for Generating Company/Licensee:

## **Chapter 1: Preliminary**

### **1. Short Title, Commencement and Interpretation**

- (1) These Regulations may be called the Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Truing Up of Tariff) Regulations, 2008.
- (2) These Regulations shall come into force from the date of their publication in the Official Gazette.
- (3) These Regulations shall extend to the whole State of Uttarakhand.

### **2. Definitions and Interpretation**

- (1) In these Regulations, unless the context otherwise requires:
  - (a) “Act” means the Electricity Act, 2003 (36 of 2003) including amendments thereto.
  - (b) “Financial Year” means period commencing on 1<sup>st</sup> April of calendar year and ending on 31<sup>st</sup> March of the subsequent calendar year
- (2) Words and Expressions used and not defined in these Regulations but defined in the Act or UERC (Terms and Conditions for Determination of Hydro Generation Tariff) Regulations, 2004 or UERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2004 or UERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2004 and Other Tariff Regulations shall have meaning assigned to them in the Act or said Regulations.

## **Chapter 2: General Terms and Conditions for Truing Up**

### **3. Initiation of Proceedings for True Up**

- (1) The Commission shall undertake a review of actual levels of expenses, revenues and operational parameters in a financial year vis-à-vis the approved levels in the relevant Tariff Order for that financial year either on a Petition moved by the concerned licensee/generating company or *suo-moto*. While doing so, the Commission after considering the reasons for these variations may permit carrying forward of financial impact of the same to the extent approved by the Commission to the following year(s). This exercise shall be called truing up exercise.
- (2) Truing up exercise for a financial year shall normally be carried out alongwith Tariff determination exercise(s) taken up after the close of that financial year.
- (3) Truing up can be done either based on provisional or audited data and can also be taken up for one or more items separately as deemed necessary by the Commission. No further true up shall normally be done after a truing up exercise based on audited data has been carried out.

### **4. Procedure for Truing Up**

- (1) The Generating Company/Licensee shall file its proposals for pass through of gains/losses due to variations in uncontrollable items alongwith all its future Tariff proposals. The Generating Company/Licensee shall also file details of variations in controllable items alongwith claims for true up as per these regulations, if any, for scrutiny of Commission with these Tariff proposals.

- (2) Variations on account of uncontrollable items shall be trued up on the basis of actual/audited information and prudence check by the Commission.

Provided that the claims of any adverse financial impact on Tariff due to truing up exercise shall be admitted only if the licensee/generating company provides sufficient reasons alongwith supporting documents to establish its claims to the satisfaction of the Commission.

- (3) The variations (gap/surplus) admitted by the Commission shall normally be allowed to be carry forward and considered alongwith the next Tariff determination

exercise. However, the Commission may, if deemed necessary, order for adjustment in the bills of consumers for consumption during the year of true up.

Provide that if such gap is large and it is not feasible to recover/pass through them in one year alone, the Commission may take a view to create a regulatory asset (as per the Guidelines provided in clause 8.2.2 of the National Tariff Policy) to be amortized in future Tariff years as may be deemed appropriate by the Commission

Provided further that any surplus/gain/saving due to over-achievement of targets for controllable items shall be shared between the consumer and the licensee in the ratio of 50:50.

Provided further that any incentive/penalty or saving/loss due to operational norm that is prescribed in the relevant tariff regulations shall be to the account of licensee/generating company only and shall not be shared with the consumers.

- (4) The Commission may allow carrying cost of such variations which shall be limited to the interest rate approved for working capital borrowings.

### **Chapter 3: Principles for Truing Up**

#### **5. Controllable and Uncontrollable Items**

- (1) For the purposes of truing up, various items of physical and financial performance shall be categorised as “Controllable” and “Uncontrollable” depending upon licensee/generating company’s ability to manage these items with reasonable control.
- (2) The Commission will set targets for items or parameters data deemed to be “Controllable” and shall include the following:
  - (a) For Generating Company
    - (i) Gross Station Heat Rate (Thermal)
    - (ii) Availability (Thermal)
    - (iii) Auxiliary Energy Consumption
    - (iv) Transformation Loss
    - (v) Secondary Fuel Oil Consumption (Thermal)
    - (vi) Operation and Maintenance Expenses

- (vii) Plant Load Factor/Ex-bus Generation
- (viii) Capacity Index (Hydro)
- (ix) Debt Equity Ratio
- (x) Interest on Working Capital
- (b) For Transmission Licensee
  - (i) Availability of Transmission System
  - (ii) Operation and Maintenance Expenses
  - (iii) Auxiliary Consumption in Sub-stations
  - (iv) Debt Equity Ratio
  - (v) Interest on Working Capital
- (c) For Distribution Licensee
  - (i) Distribution Loss
  - (ii) Collection Efficiency
  - (iii) Operation and Maintenance Expenses
  - (iv) Debt Equity Ratio
  - (v) Interest on Working Capital
  - (vi) Quality of Supply Related Performance Parameters
- (3) The following parameters shall be considered as Uncontrollable:
  - (a) For Generating Company
    - (i) Capital expenditures for projects approved by Commission
    - (ii) Capital Structure for approved additional capitalization subject to prescribed debt equity norm and approved financial package
    - (iii) Depreciation on approved capitalizations
    - (iv) Interest on loans as per approved financial package
    - (v) Foreign Exchange Rate Variation
    - (vi) Income tax (to the extent it arises from regulated business)
    - (vii) Return on Equity

(viii) Non-tariff Income

(b) For Transmission Licensee

- (i) Capital expenditures for projects approved by Commission
- (ii) Capital Structure for approved additional capitalization subject to prescribed debt equity norm and approved financial package
- (iii) Depreciation on approved capitalizations
- (iv) Interest on loans as per approved financial package
- (v) Foreign Exchange Rate Variation
- (vi) Income tax (to the extent it arises from regulated business)
- (vii) Return on Equity
- (viii) Non-tariff Income

(c) For Distribution Licensee

- (i) Capital expenditures for projects approved by Commission
- (ii) Capital Structure for approved additional capitalization subject to prescribed debt equity norm and approved financial package
- (iii) Depreciation on approved capitalizations
- (iv) Interest on loans as per approved financial package
- (v) Foreign Exchange Rate Variation
- (vi) Income tax (to the extent it arises from regulated business)
- (vii) Return on Equity
- (viii) Non-tariff Income

(d) For Retail Supply Licensee

- (i) Power Purchase Volume and Cost (including UI Overdrawals)
- (ii) UI underdrawals
- (iii) Sales Mix and Revenue at approved tariff
- (iv) Capital expenditures for projects approved by Commission

- (v) Capital Structure for approved additional capitalization subject to prescribed debt equity norm and approved financial package
- (vi) Depreciation on approved capitalizations
- (vii) Interest on loans as per approved financial package
- (viii) Foreign Exchange Rate Variation
- (ix) Income tax (to the extent it arises from regulated business)
- (x) Return on Equity
- (xi) Non-tariff Income

## **6. Treatment of Controllable and Uncontrollable Items**

- (1) The Generating Company/Licensee shall be entitled for recovery of any financial loss on account of variations in uncontrollable items/parameters specified above. Similarly, Commission may adjust the financial gains due to variations in these parameters during truing up.

Provided further that any adverse financial impact for variation in uncontrollable items due to lapse on part of the generating company/licensee or its suppliers/contractors shall not be allowed in truing up.

- (2) The Generating Company/Licensee shall not be entitled for recovery of any financial loss on account of under performance on targets for controllable items/parameters specified above.

Provided that variations in controllable items on account of factors beyond the control of the generating company such as force majeure, change of law, due to decree or award of any court or due to actual rate of annual escalation or rate of interest as per approved terms of loan being different from the approved level. However, any penalty or compensation or fine paid by the generating company/licensee under the directions of any judicial/quasi-judicial body shall not be considered for pass through in truing up, unless provided otherwise.

- (3) Any financial gain on account of over performance, with respect to the targets set for controllable items, shall be allowed to be retained by the Generating Company/Licensee and shall not be adjusted in Tariff.

- (4) Any financial loss or gain due to incentive or penalty/disincentive mechanism specified in the Regulations/Orders of the Commission shall not be adjusted in Tariff during truing up.
- (5) The Commission shall be entitled to make suitable adjustments for under achievement/over achievement of performance targets fixed for additional capitalization, quality of supply and customer service parameters.

## **7. Contingency Reserve**

- (1) The consumer share of the gains in controllable items shall be treated as and transferred to a contingency reserve/regulatory liability to be used for maintaining stability in consumer Tariffs, if deemed appropriate by the Commission.
- (2) The contingency reserve shall be kept in a separate account and shall be effectively invested and managed to earn returns, which shall be credited to the reserve, based on market conditions ensuring adequate liquidity.
- (3) This reserve shall not be utilized for speculative purposes.
- (4) There shall be yearly additions and drawals to/from the contingency reserve account as may be directed by Commission based on performance of the licensee/generating company.
- (5) The use of this reserve in any other manner shall be only with the prior approval of the Commission.
- (6) The licensee/generating company shall maintain separate account for contingency reserve and reflect the balance in the contingency reserve account in the balance sheet.
- (7) The Commission may, in exceptional circumstances, permit the licensee/generating company to make good the surplus/saving alongwith or without carrying cost, if the same is not available with it in cash form, in future years through efficiency gains as may be deemed appropriate by the Commission.

## **Chapter 4: Truing Up of Various Components of Tariff**

### **8. True up of Sales and Power Purchase for Distribution and Retail Supply Licensee**

- (1) The variation in actual power purchase volume and cost (including UI over drawals) vis-à-vis the level approved for that financial year that is attributable to

State consumption shall be allowed to be pass through during true up after applying merit order principle.

Provided that Commission shall be entitled to disallow power purchase costs that is either not purchased on merit order (except for those exempted from merit order purchase) or is incurred without taking prior approval of the Commission (except UI over drawals and short term purchases as per Guidelines, if any, of the Commission).

- (2) In case, actual distribution loss level is lower/higher than the target, actual power purchase and associated cost shall be considered subject to conditions as specified in (1) above. Target sales shall be derived by applying target distribution and transmission loss level on actual power purchase admitted by Commission and excess/(short) sales above/below the target shall be determined by subtracting target sales from actual sales. For the purposes of valuation of excess sales in financial terms to determine financial gain/(loss) in over-achieving/under-achieving the target, the average rate of billing for actual sales shall be taken assuming the sales mix to be an uncontrollable factor.
- (3) Actual revenues at approved Tariffs shall be considered for working out average rate of billing. However, the Commission will be entitled to carry out suitable corrections in revenues if the same are not in accordance with the approved Tariff.

#### **9. Truing Up of Other Components of Tariff**

- (1) Truing up of projected additional capitalization, its financing and depreciation thereon shall be done as per relevant regulations.
- (2) Variation of Interest Rates as per approved financial package of the Project shall be allowed to be pass through. No change in scheduled re-payments shall normally be considered. Interest on default in payment of principal or interest shall not be normally considered.
- (3) Variation in O&M Expenses due to actual escalation rate, to be determined on the basis of separate Regulations on the subject, being different from that approved in the Tariff Order shall be considered as pass through.

Provided that no adjustment shall be required to be done if the variation is within 10% of approved level.



- (4) Any variation in O&M expenses because of wage revision due to Government Orders in Government owned companies following Government pay structure may be permitted by the Commission, provided that the claim is substantiated by adequate reason and supporting documents.
- (5) Non-tariff revenues shall normally be taken at actuals unless the same needs to be modified as per Commissions directives/regulations.

## **Chapter 5: Miscellaneous**

### **10. Savings**

- (1) Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.
- (2) Nothing in these regulations shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of a matter or a class of matters, deems it just or expedient for deciding such matter or class of matters, in so far as the same is in conformity with provisions of the Act.
- (3) Nothing in these regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercise any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.

### **11. Powers to Remove Difficulties**

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may by general or special order give directions, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

### **12. Power to Amend**

The Commission may, at any time add, vary, alter, modify or amend any provision of these regulations.

By Order of the Commission

(Anand Kumar)

Secretary  
Uttarakhand Electricity Regulatory Commission