ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAVAN
UNIT-VIII, BHUBANESWAR – 751 012
Tel. No.[0674] 2396117/2393097 Fax: 2395781/2393306
E-mail: orierc@rediffmail.com
Website: www.orierc.org
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PUBLIC NOTICE

Sub: Publication for OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2013.

The Commission has framed the OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2013 in accordance with Section 181 read with Section 61 & 62 of the Electricity Act, 2003.

The Commission hereby publishes the proposed OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2013 for information of the general public under Section 181(3) of the Electricity Act, 2003.

The proposed Regulations is available in the Commission's website: **www.orierc.org.** The copies of the proposed Regulations may also be obtained from the Commission's office by payment of Rs.30.00 in shape of Bank Draft drawn in favour of OERC or in cash to be deposited with the Accounts Officer, OERC.

Before finalisation of the said Regulation, the Commission invites opinion of general public/ stakeholder through this publication u/s 181(3) of the Electricity Act, 2003. Interested persons/institutions/associations/ Generating companies/ Licensees may furnish their suggestions/opinions on the said Regulation to the undersigned on or before **09.12.2013 (by 5.00 P.M.)**. On receipt of the responses from different quarters, the Commission may, in appropriate cases, bring the modifications, if any, to the proposed Regulations and approve the same for publication in the official gazette.

By order of the Commission

Sd/-

(G. K. Dhall)

Secretary

Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff

ODISHA ELECTRICITY REGULATORY COMMISSION

NOVEMBER, 2013

ODISHA ELECTRICITY REGULATORY COMMISSION
UNIT – VIII, BHUBANESWAR – 751012

No. XXXXXX- In exercise of powers conferred by Sections 61, 62 and 86 read with Section 181 of the Electricity Act, 2003 (Act 36 of 2003) and all other powers enabling it in that behalf, the Odisha Electricity Regulatory Commission hereby makes the following Regulations, namely:

1. SHORT TITLE, COMMENCEMENT AND EXTENT

1.1 These Regulations shall be called "Odisha Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2013".

1.2 These Regulations shall extend to the whole of the State of Odisha.

1.3 The Commission in specifying these Regulations shall be guided by the principles contained in Sections 61 and 62 of the Act to encourage competition, efficiency, economical use of resources, good performance and optimum investments.

1.4 These Regulations shall come into force on the date of publication in the Official Gazette.

1.5 The Orissa General Clauses Act, 1937 shall apply to the interpretation of these Regulations.

1.6 These regulations shall supersede the OERC (Terms & Conditions for Determination of Tariff) Regulations, 2004

2. DEFINITIONS AND INTERPRETATION

2.1 In these Regulations, unless the context otherwise requires-

(a) **"Act"** means the Electricity Act, 2003

(b) **"Aggregate Revenue Requirement"** or **"ARR"** means for each Financial Year, the costs pertaining to the Licensed business which are permitted, in accordance with these Regulations, to be recovered from the tariffs and charges determined by the Commission;

(c) **"Auditor"** means an auditor appointed by the distribution company, in accordance with the provisions of sections 224, and 619 of the Companies Act, 1956 (1 of 1956), or any other law for the time being in force;

(d) "**Base Year**" means the Financial Year immediately preceding the first year of the applicable Control Period;

(e) **"Change in Law"** means occurrence of any of the following events:

(i) the enactment, bringing into effect, adoption, promulgation, amendment, modification or repeal of any law; or

(ii) change in interpretation of any law by a competent court, Tribunal or Indian Governmental Instrumentality which is the final authority under law for such interpretation; or

(iii) change by any competent statutory authority, in any consent, approval or licence available or granted for the project.

(f) **“Commission”** means the Odisha Electricity Regulatory Commission referred to in sub-section (1) of the Section 82 of the Act;

(g) **“Control Period”** means a multi-year period fixed by the Commission, from time to time. The 3rd Control Period is from 1st April 2013 and up to 31st March 2018;

(h) **“Financial statement”** means for each financial year, the following statements, namely-

(i) balance sheet, prepared in accordance with the form contained in Part I of Schedule VI to the Companies Act, 1956 as amended from time to time;

(ii) profit and loss account, complying with the requirements contained in Part II of Schedule VI to the Companies Act, 1956;

(iii) cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) of the Institute of Chartered Accountants of India;

(iv) report of the statutory auditors;

(v) cost records prescribed by the Central Government under Section 209(1)(d) of the Companies Act, 1956;

together with notes thereto, and such other supporting statements and information as the Commission may direct from time to time;

Provided further that the Commission may, from time to time, specify regulatory accounts to be maintained by a local authority under the Act.

(i) “**Financial Year**” means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;

(j) **“GRIDCO”** means GRIDCO Limited;

(k) **“Licensed Business”** shall mean the functions and activities, which the Licensee is required to undertake in terms of the Licence granted or being a deemed Licensee under the Act;

(l) **“Licensee”** means a person who has been granted a Licence and shall include a deemed Licensee;

(m) **“Other Business”** means other businesses of the Distribution Licensee under section 51 of the Electricity Act 2003;

(n) **"Retail Supply Business"** means the business of sale of electricity by a Distribution Licensee to the category of consumers within its area of supply in accordance with the terms of the Licence for distribution and retail supply of electricity;

(o) **"Retail Supply Tariff"** is the tariff charged by the Distribution Licensee for supply to its consumers other than open access consumer which includes charges for Wheeling and Retail Supply;

(p) **"Wheeling"** means the operation whereby the distribution system and associated facilities of a Distribution Licensee, are used by another person for the conveyance of electricity on payment of charges to be determined under these regulations;

(q) **"Wheeling Business"** means the business of operating and maintaining a distribution system for conveyance of electricity in the area of supply of the Distribution Licensee.

2.2 Words and expressions used in these Regulations and not defined herein but defined in the Act shall have the meaning assigned to them under the Act.

2.3 All proceedings under these Regulations shall be governed by the OERC (Conduct of Business) Regulations, 2004.

3. SCOPE OF REGULATIONS AND EXTENT OF APPLICATION

3.1 In accordance with the principles laid out in these Regulations, the Commission shall determine the tariff for:

(a) Wheeling of electricity, i.e. Wheeling Tariff;

(b) Retail sale of electricity, i.e. Retail Supply Tariff;

Provided that in case of distribution of electricity in the same area by two or more Distribution Licensees, the Commission may, for promoting competition among Distribution Licensees, fix only maximum ceiling of tariff for retail sale of electricity:

Provided further that where the Commission has permitted open access to any category of consumers under Section 42 of the Act, the Commission shall determine the Wheeling Tariff, cross-subsidy surcharge, additional surcharge and other open access related charges in accordance with these Regulations and OERC (Determination of Open Access Charges) Regulation, 2006.

3.2 In accordance with the principles laid out in these Regulations, the Commission shall determine the Aggregate Revenue Requirement (ARR) and Tariff for

(a) Wheeling Business; and

(b) Retail Supply Business.

3.3 The ARR determined for the Wheeling Business shall be used to fix the Wheeling

Tariff for wheeling of electricity.

3.4 The ARR determined for Retail Supply Business shall be used to fix the Retail Supply Tariff for retail sale of electricity.

3.5 These Regulations shall apply to all the Distribution Licensees in the state of Odisha.

4. GENERAL APPROACH AND GUIDING PRICIPLES

4.1 The Commission shall adopt Multi Year Tariff Framework for approval of ARR and expected revenue from tariffs and charges.

4.2 The Multi Year Tariff framework shall be based on the following:

(a) Business Plan submitted by the applicant for the entire control period for the approval of the Commission prior to beginning of the control period.

(b) Trajectory for specific parameters as may be stipulated by the Commission based on the submissions made by the licensees, actual performance data of the applicants and performance achieved by similar utilities.

Segregation of Wheeling and Retail Supply Business

4.3 The Distribution Licensee shall segregate the accounts of the Licensed business into Wheeling Business and Retail Supply Business.

4.4 The Wheeling Charges of the Distribution Licensee shall be determined by the Commission on the basis of segregated accounts of Wheeling Business:

Provided that for such period until accounts are segregated, the following allocation matrix shall be applicable for the purpose of allocation of expenses into Wheeling Business and Retail Supply Business:

Particulars	Wheeling Business (%)	Retail Supply Business (%)
Power Purchase Expenses (including intra state transmission and SLDC charges)	0%	100%
Employee Expenses	60%	40%
Administration & General Expenses	50%	50%
Repair & Maintenance Expenses	90%	10%
Depreciation	90%	10%
Interest on Long-term Loan Capital	90%	10%
Interest on Working Capital and on consumer security deposits	10%	90%
Bad Debts Written off	0%	100%
Income Tax	90%	10%
Return on Equity	90%	10%
Non-Tariff Income	10%	90%

Provided further that the Commission at appropriate time, shall direct the utility to segregate their accounts for Wheeling Business and Retail Supply Business based on guidelines specified by the Commission.

Baseline

4.5 The baseline values (operating and cost parameters) for the Control Period shall be determined by the Commission and based on the approved values by the Commission in the past, latest audited accounts, estimate of the actual for the relevant year, prudence check and other factors considered appropriate by the Commission.

Controllable and Uncontrollable costs

4.6 The Commission defines the following elements of cost as Controllable or Uncontrollable nature:

Sl. No	ARR Item	Controllable / Uncontrollable Cost
1.	Employee Cost	Controllable
2.	Repair and Maintenance	Controllable
3.	Administrative & General Expenses	Controllable
4.	Interest and Finance Charges	Controllable
5.	Depreciation	Controllable
6.	Return on Equity	Controllable
7.	Non-tariff income	Controllable
8.	Power Purchase Expenses (including intra state transmission and SLDC charges)	Uncontrollable
9.	Fuel Costs	Uncontrollable
10.	Taxes on Income	Uncontrollable
11.	Inflation	Uncontrollable
12.	Exchange rate variation	Uncontrollable
13.	Force Majeure Conditions	Uncontrollable

Provided further that the above specified table will be valid starting from the 3rd Control Period from 1st April 2013 and up to 31st March 2018 to till such time the same is revised by the Commission.

5. BUSINESS PLAN

5.1 The Distribution Licensee shall file for the Commission's approval, not less than 120 days before the commencement of the first year of the Control Period or such other date as may be directed by the Commission, a Long Term Business Plan prepared in accordance with these regulations. The Business Plan shall be for the entire Control Period and shall, inter alia, contain:

(c) Sales/Demand Forecast for each consumer category and sub-categories for each year of the Business Plan;

(d) Distribution loss reduction trajectory and collection efficiency for each year of the Business Plan;

(e) Power Procurement Plan of the distribution licensee including details of availability of power from renewable energy source as concurred by GRIDCO for each year of the business plan period.

(f) The Capital Investment Plan shall be prepared in accordance with the sales/demand forecast, power procurement plan, distribution loss trajectory, targets for quality supply etc. The Capital investment plan shall be consistent with the perspective plan developed by the State Transmission Utility (STU) based on the data submitted by the Distribution Licensees. The investment plan should also include yearly phasing of capital expenditure along with the financing plan and corresponding capitalization schedule.

(g) The appropriate capital structure and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;

(h) The Operation and Maintenance (O&M) costs estimated for the Base Year and two years prior to the Base Year with complete details, together with the forecast for each year of the Business Plan Period based on the proposed efficiency in operating costs, norms for O&M cost allowance including indexation and other appropriate mechanism;

(i) Details of depreciation based on fair life of the assets and capitalization schedule for each year of the control period.

(j) A set of targets proposed for other controllable items such as working capital, quality of supply targets, etc. The targets shall be consistent with the capital investment plan proposed by the Licensee;

(k) Proposals for other items such as external parameters used for indexation (inflation, etc);

(l) The filings in addition to the Business Plan period shall also contain the data for the cost and revenue parameters for the previous five year period.

5.2 The Commission will broadly classify costs incurred by licensee as controllable and non-controllable. For all controllable costs, the Commission may set the targets for each year under review in the approved Business Plan. These targets shall be used for computing revenue requirement.

5.3 All non-controllable costs as checked by the Commission with due diligence and prudence shall be treated as pass-through.

5.4 Provided that the performance parameters, whose trajectories have been specified as per this Regulation, shall form the basis of projection of these performance parameters in the Business Plan.

5.5 Annual review of performance shall be conducted based on the actual vis-à-vis the approved forecast and categorization of variations in performance into controllable factors and uncontrollable factors;

5.6 The Commission shall make periodic reviews of the licensee’s performance during the control period to address any practical issues, concerns or unexpected outcomes that may arise and in general.

6. PROCEDURE FOR TARIFF DETERMINATION

6.1 The licensee shall make all filings for ARR as per annual schedule, by November 30th of every year of the Control Period. The ARR shall contain the proposal for Wheeling Tariff and Retail Supply Tariff including its computation. The licensee shall furnish the required information with regard to technical, commercial and financial parameters in the formats as approved by the Commission from time to time.

6.2 The annual filings for Wheeling Tariff shall contain the following:

(a) The Distribution system or network usage forecast for the year consistent with the Business Plan;

(b) Computation of Non-Tariff Income with item-wise description and details;

(c) Computation of income from Other Businesses like Consultancy Services, Training Facilities, etc;

(d) Computation of tariffs for Wheeling of electricity for the year, including the losses and the procedure thereof;

(e) Expected revenue from proposed wheeling tariff;

6.3 The annual filings for Retail Supply Tariff shall contain the following:

(a) Licensee shall submit proposal for retail sale of electricity for the consumers pertaining to Retail Supply Business, which shall include tariffs for each consumer category, slab-wise and voltage wise. The proposed tariff shall also contain energy charges, demand charges, minimum fixed charges, etc along with the tariff rationalization measures. The tariff proposals of the Licensee should demonstrate that the tariffs are progressively reflecting the cost of supply;

(b) Computation of Non-Tariff Income with item-wise description and details;

(c) Computation of income from Other Businesses like Consultancy Services, Training Facilities, etc;

(d) Expected Revenue from the proposed Retail Supply Tariff, and other matters considered appropriate by the Distribution Licensee, including incentive schemes to consumers, cross subsidy surcharge, etc.

6.4 The licensee in the ARR filing for the ensuing financial year shall indicate the manner in which the gap, if any, between the charges which it is permitted to recover and the expected revenue calculated shall be filled up.

6.5 A Tariff Order shall continue to be in force for such period as may be indicated in the said order unless amended or revoked earlier.

6.6 The Accounting Policy and Chart of Accounts shall be followed by the licensee, as determined by the Commission from time to time.

6.7 Where in case of distribution of electricity in the same area by two or more Distribution Licensees, the Commission may, for promoting competition among Distribution Licensees, fix only maximum ceiling of tariff for retail sale of electricity.

6.8 Power purchase expenses where tariff has been determined through the process of bidding in accordance with the guidelines issued by the Central Government as per the provisions of Section 63 of the Act, the Commission shall adopt such expenses in accordance with the provisions of the Act.

7. PRINCIPLES FOR DETERMINATION OF ARR

7.1 The Aggregate Revenue Requirement for the Wheeling Business of the Distribution Licensees for each year, shall contain the following items;

(a) Operation and Maintenance expenses;

(b) Interest and Finance Charges;

(c) Depreciation;

(d) Return on Equity

(e) Income Tax;

(f) Interest on Security Deposit of users;

(g) Other allocation and expenses consider appropriate by the Commission such as rebate etc.

(h) Less: Non-Tariff Income;

(i) Less: Income from Other Business; and

(j) Less: Income from wheeling of electricity through open access.

7.2 The Aggregate Revenue Requirement for the Retail Supply Business of the Distribution Licensee, , shall contain the following items;

(a) Power Purchase Expenses (including intra state transmission and SLDC charges and Wheeling Charges);

(b) Operation and Maintenance expenses

(c) Interest and Finance Charges;

(d) Depreciation;

(e) Return on Equity

(f) Income Tax;

(g) Interest on Consumer Security Deposit;

(h) Provision for bad debts;

(i) Other allocation of expenses considered appropriate by the Commission such as rebate etc.

(j) Less: Non-Tariff Income;

(k) Less: Income from Other Business; and

(l) Less: Receipts on account of cross subsidy surcharge and additional surcharge from open access customers.

Power Purchase

7.3 The quantum of power purchase for the ensuing financial year shall be estimated on the basis of actual purchase made during the previous financial year(s) and actual to the extent available for the current year and any projections for the balance period of the current year with appropriate adjustments for any abnormal variations during the period. The licensee through appropriate documentation shall justify all the abnormal deviations. Such estimate should also consider the Quantum of Renewable Purchase Obligation (RPO) and the target set, if any, for Energy Efficiency (EE) and Demand Side Management (DSM) schemes. Also, such estimate shall include special consideration for any abnormal addition of consumers envisaged (like under RGGVY).

7.4 Provided that the forecasts/estimates shall take into account factors such as overall economic growth, consumption growth of electricity-intensive sectors, advent of competition in the electricity industry, impact of loss reduction initiatives and other relevant factors.

7.5 Based on the above guideline, the licensee should prepare a long term power procurement plan and submit the same to GRIDCO Limited every year.

7.6 Such power procurement plan shall be based on merit order dispatch.

7.7 This power purchase plan will be evaluated by GRIDCO Limited based on

(a) The submission made by licensee

(b) Guideline set by commission for power purchase

(c) Power purchase agreements

(d) Bulk supply tariff

(e) Trends in captive power consumption

(f) Need to promote co-generation and generation of electricity from renewable sources of energy.

(g) Availability (or expected availability) of capacity in the intra-State transmission system for evacuation and supply of power procured under the agreement/arrangement;

7.8 GRIDCO based on its evaluation can revise the power procurement plan of the licensee. Provided that the revised power procurement plan shall be made available to Distribution licensee every year.

7.9 The Commission shall review the power procurement plan of the Distribution Licensee for its prudence for determination of ARR.

7.10 In case of direct procurement of power by the distribution licensees from generators/other sources in order to optimize the cost of power procured by utilities, the same should be based on the Merit Order Dispatch principles of all Generating Stations considered for power purchase. While approving these direct purchase, the Commission may consider the following:

(a) Load profiles during various seasons

(b) Technical constraints

(c) Avoidable costs (whether from own generation or power purchase) after giving due consideration to valid contractual obligations.

7.11 In the regime of Availability Based Tariff (ABT), the licensee shall be allowed to retain incentive of over drawl of power under higher frequency and likewise absorb the loss for drawl of power under lower frequency as per the provision of Odisha Electricity Regulatory Commission (Intra-states ABT) Regulations, 2007.

7.12 An automatic fuel cost revision shall be provided based on the monthly energy charge rate and fuel price adjustment of secondary fuel determined for generating stations in accordance with the "Odisha Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2013. The licensee shall be required to compute changes in the fuel costs, and appropriately claim or refund the same in tariffs, on quarterly basis according to an automatic fuel cost revision provision. The fuel cost revision shall include fuel related expenses including variations in mix of power purchases.

Distribution Loss

7.13 For estimating the distribution loss in ARR, the licensee are required to carry out proper loss estimation studies based on Energy accounting and audit. Based on such loss estimation studies, the Distribution shall submit voltage-wise distribution loss segregating them into technical loss and commercial loss for each year of the Control Period.

7.14 The commission shall examine the filing made by distribution licensee in respect of distribution loss and shall approve a loss target for each year of the Control Period, based on the opening loss levels, licensee's filings/submissions, benchmarking, past trends, objections raised by the stakeholders and any other factor considered relevant by the Commission. This approved loss target will be used for computing sale of power to consumers for that year.

7.15 The licensee will have to share with the consumers part of the financial gains arising from achieving higher loss reduction vis-à-vis the target as per the mechanism for sharing of gains defined in regulation 7.69. In case the actual distribution loss exceeds the normative loss level approved by the Commission, such excess loss shall be to the account of the distribution licensee.

7.16 The Commission may encourage incentive and disincentive schemes for the staff of the utilities linked to the reduction of losses, as per the provision of para 8.2.1(2) of the Tariff Policy.

Sales Forecast

7.17 The licensee shall forecast energy sales, the number of consumers and load profile for each consumer category and for each slab for the period under consideration.

7.18 The sales for revenue purpose shall be determined by the Commission by considering the approved power purchase as per regulations 7.3 to 7.12 and factoring in the losses determined as per regulations 7.13 to 7.16. Such sales for revenue purpose shall be applied in estimating the revenue accruals and determination of tariff.

7.19 Provided that where the Commission has stipulated a methodology for forecasting sales to any particular tariff category, the Distribution Licensee shall incorporate such methodology in developing the sales forecast for such tariff category.

7.20 The distribution Licensee(s) shall also indicate category-wise open access customers and sales. The demand and energy wheeled for them shall be shown separately for

(a) Supply within its area of supply; and

(b) Supply outside its area of supply.

7.21 The Commission shall examine the sales forecasts of the licensee for reasonableness, consistency of principles across all licensees, past trend etc., before accepting and adopting it. The licensee shall develop a robust database of all consumers with desired particulars regarding their demand to facilitate the forecasting process in accordance with the direction given by the Commission.

Operation and Maintenance expenses

7.22 Operation and Maintenance (O&M) expenses shall include:

(a) Salaries, wages, pension contribution and other employee costs;

(b) Administrative and General Expenses;

(c) Repairs and Maintenance; and

(d) Other miscellaneous expenses, statutory levies and taxes (except corporate income tax).

7.23 These costs for the base year shall be recognised at actual or as allowed by the

Commission, whichever is lower.

7.24 The commission shall undertake a prudence check of the submission made by distribution licensee for O&M cost before allowing such expenditure in ARR.

7.25 The Operation & Maintenance expenses shall be allocated between the Wheeling Business and Retail Supply Business, by considering the specified percentages in regulation 4.4 for employee expenses, administration and general expenses, and repair and maintenance expenses, as weights for determining the weighted average allocation percentage for operation and maintenance expenses.

Determination of Salaries, wages, pension contribution and other Employee Cost

7.26 Wages and salaries during the control period shall be determined based on the base year values of Basic pay and Grade Pay escalated for annual salary increments and inflation based on Govt. of Odisha notification issues from time to time.

7.27 Basic Pay and grade pay are to be taken from last available annual audited accounts of the Licensee. However if as per the Commission's assessment the figures shown in the audited accounts cannot be relied upon, the Commission may take into account the actual payment outgo during the last six months of the year to arrive upon the pay for the ensuing year.

7.28 Dearness Allowance, HRA and other allowance would be calculated as per rates notified by Govt. of Odisha from time to time.

7.29 Terminal liabilities would be provided based on a periodic actuarial valuation to be made by the Commission in line with the prevailing Indian accounting standards.

7.30 The Commission shall take into consideration various recourses taken by distribution licensees e.g. distribution franchisee, outsourcing and engaging contractual employees to undertake customer care, billing, collection and network maintenance activities, while finalizing the employee cost during the approval of ARR in the control period.

7.31 The Commission may from time to time direct the distribution licensees to submit any incentive and dis-incentive scheme for improving the productivity of employees.

Determination of Administrative and General (A&G) Expenses

7.32 The A&G Expenses for each subsequent year will be determined by escalating the A&G Expenses for the base year, at the escalation factor of 7 % to arrive at permissible A&G expenses for each year of the Control Period

7.33 The Commission may, in addition to the normal A&G expenses may allow additional expenses under this head for special measures to be undertaken by the distribution licensees towards reduction of AT&C losses and improving collection efficiency. Provided the commission will undertake a prudence check before allowing such expenditure.

Determination of Repairs and Maintenance (R&M)

7.34 Repair and Maintenance expenses would be allowed at the rate of 5.4% of Gross Fixed Assets (GFA) only on assets owned by the distribution company, for each year of the Control Period.

7.35 The Commission may provisionally allow an amount for maintenance of assets added under RGGVY and BGJY programme.

7.36 The Commission may also allow special R&M during this control period in order to enable DISCOMs to undertake critical activities such as loss reduction, energy audit, Consumer Indexing, Pole scheduling etc. Provided the commission will undertake a prudence check before allowing such expenditure.

Capital Investment

7.37 Capital investments shall cover spending on capital equipment that augments fixed assets, and capitalisation of corresponding interest and expenses determined as per the applicable accounting policies and guidelines. Capital investments may address a variety of needs such as, meeting load growth, refurbishment and replacement of equipment, reduction of losses, improvement of voltage profile, improvement of quality of supply and system reliability, metering, communication, computerisation, etc.

7.38 The licensee shall propose in its filing a detailed capital investment plan. The plan must separately show ongoing projects that will spill into the year under review, and new projects that will commence but may be completed within or beyond the tariff period. For the new projects, the filing must provide the justification as stipulated under relevant investment guidelines of the Commission.

7.39 In addition to the approved capital investment plan, the licensee can seek provision for additional capital expenditure anytime during the tariff year to meet natural calamities involving substantial investments. The Commission shall examine and if satisfied shall approve the corresponding costs for inclusion in revenue requirement in the next period.

7.40 The Capital investment plan shall be division-wise/scheme-wise and with respect to each circle/scheme, shall include:

(a) Purpose of investment (i.e. replacement of existing assets, meeting load growth, technical loss reduction, non-technical loss reduction, meeting reactive energy requirements, customer service improvement, improvement in quality and reliability of supply, etc)

(b) Capital Structure;

(c) Capitalization Schedule;

(d) Financing Plan;

(e) Cost-benefit analysis;

(f) Performance improvement envisaged in the Control Period.

7.41 While presenting the justification for new projects, the licensee shall detail the specific nature of the works, and outcome sought to be achieved. The detail must be shown in the form of physical parameters, e.g., new capacity added, to be added, meters replaced, customer service centres set up etc, so that it is amenable for physical verification. This is necessary to ensure that the approved investment plans are implemented and the licensee does not derive improper financial benefit by delaying or neglecting to make the proposed investment.

7.42 The Commission shall review the licensee's capital investment plan for approval, and for this purpose may require the licensee to provide relevant technical and commercial details. The costs corresponding to the approved capital investment plan of a licensee for a given year will, normally be considered for its revenue requirement.

7.43 The Licensee shall quarterly submit the details of the scheme-wise asset capitalization along with receipt of the Electrical Inspector certificate (wherever applicable) and other documents as may be prescribed by the Commission from time to time for allowing Depreciation.

7.44 In case of any significant shortfall in physical implementation, the Commission shall require the licensee to explain the reasons, and may proportionately reduce the provision, including the interest and the return component, made towards revenue requirement, in the next period.

7.45 Licensee could retain financial benefit arising out of savings in financing costs due to faster implementation at lower costs because of better project management or procurement practices. Financial losses on account of time and cost overrun to be on account of the licensees only.

Interest and Finance charges

7.46 The costs corresponding to the approved investment plan of a licensee for a given year will, normally, be considered for its revenue requirement. For the past investments, actual values will be considered. Depreciation reserves to the extent available shall be utilised for financing the investments. The licensee shall not earn return from the assets created through this depreciation reserve.

7.47 In case of all new projects, debt-equity ratio shall be 75:25 for determination of tariff. Where equity employed is more than 25%, the amount of equity for the purpose of tariff shall be limited to 25% and the balance amount shall be considered as the normative loan:

Provided that in case of the projects where actual equity employed is less than 25%, the actual debt and equity shall be considered for determination of tariff.

7.48 The licensee shall demonstrate that financing and investment requirements match. Thus, financing cost considered for revenue requirement is matched with what is needed for the approved level of capital expenditure and working capital.

7.49 For Capital Expenditure the outstanding loan capital shall calculated using the normative debt:equity ratio and normative repayment made every year:

Provided that the amount of such normative repayment for a year shall be equal to the amount of depreciation on the fixed asset to which such loan relates:

Provided further that where the outstanding normative loan balance is less than the amount of normative loan repayment calculated as above, the repayment shall be assumed to be equal to the outstanding normative loan balance and no further amount shall be permitted on account of such loan:

Provided further that for the Distribution Licensee formed as a result of a transfer scheme, the date of the transfer scheme shall be the effective date for the determination of equity capital and the Debt to Equity Ratio. Based on the equity capital and the Debt to Equity Ratio, for the assets covered under Transfer Scheme the debt and equity shall be considered while determining normative loan on capital asset:

Provided further that Debt to Equity Ratio for the assets capitalized till 1.04.2013 (other than assets covered under Transfer Scheme) shall be considered as per the debt and equity approved by the Commission at the time of capitalization.

Provided further that the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.

7.50 The premium, if any, raised by the Distribution Licensee, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting the capital expenditure of the distribution system.

7.51 For normative loans outstanding at the beginning of the year on the revenue account, the licensee shall indicate in its filing the expected interest outgo for each year. This will be considered towards revenue requirement of the licensee for such years. The licensee shall make efforts to reduce the cost of the outstanding loans, in case of declining interest rates, by way of swapping. The licensee, till the next tariff review, may retain the benefit of such savings, when the actual cost of interest will be considered as the base for subsequent years.

7.52 The rate of interest on capital loans shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each Financial Year:

Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered:

Provided further that if the distribution licensee does not have actual loan, then the weighted average rate of interest of the company as a whole shall be considered.

7.53 Interest on Working Capital: Working capital shall include

(a) Operation and maintenance expenses for one month;

(b) Receivables for one month;

(c) Maintenance spares @ 40% of R&M expenses for one month

7.54 The rate of interest for working capital shall be Rate of interest on working capital shall be on normative basis and shall be equal to the SBI Base Rate plus 300 basis points as on 1^{st} April of the year for which tariff is determined.

Return on Equity

7.55 Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulations 7.37 to 7.52.

7.56 The Distribution Licensee, shall be allowed a return on equity capital at the rate of 16 % per cent per annum (post tax), in Indian Rupee terms, on the amount of equity capital determined in accordance with regulations 7.37 to 7.52.

7.57 In case of foreign currency brought as capital, the Commission may consider a separate rate of return if foreign exchange variation is allowed as a pass through.

7.58 The tax only to the extent of the tax on return is provided as pass through.

Provision for bad debts

7.59 The Commission shall allow a provision for bad debts as a prudent commercial practice in the revenue requirement of the licensee. This provision for bad debts will be established as a percentage of sales revenue as determined by the Commission from time to time. Before establishing a provision for bad debts, the Commission may direct the licensee to audit the receivables so that there will be no financial burden on genuine consumers due to inappropriate provision.

Depreciation

7.60 For the purpose of tariff determination, the rate of depreciation will be linked to the useful life of the asset, calculated on straight-line method. However, a higher rate of depreciation may be permitted by the Commission, in case of inadequacy of cash for debt repayment. The Commission may also consider allowing advance against depreciation subject to the following constraints:

(a) In any year, the Advance against depreciation and depreciation together do not exceed 1/12th of the original loan amount.

(b) Provided that Advance Against Depreciation shall be permitted only if the cumulative repayment up to a particular year exceeds the cumulative depreciation up to that year;

(c) Provided further that Advance Against Depreciation in a year shall be restricted to the extent of difference between cumulative repayment and cumulative depreciation up to that year.

(d) Total depreciation allowed during the life of the project shall not exceed 90% of the original project cost.

7.61 Depreciation shall be calculated for each year of the Control Period, on the amount of Original Cost of the Fixed Assets considered for calculation of the Regulated Rate Base of the corresponding year:

Provided that depreciation shall not be allowed on assets funded by consumer contribution (i.e., any receipts from consumers that are not treated as revenue) and capital subsidies/grants:

Provided further that the Licensee shall submit year-wise details of assets retired and disposed off, which shall be removed from the Original Cost of Fixed Assets:

Provided further that assets shall normally be not retired before completion of the useful life and the Licensee shall take prior approval of the Commission in case of retiring any asset before its useful life:

Provided further that the Licensee shall submit year-wise details of the assets which have completed its useful life.

7.62 Rate of Depreciation for each year of the Control Period shall be allowed on the pre-up-valued assets at pre-1992 rates as notified by the Govt. of India

7.63 On repayment of entire loan, the remaining depreciable value shall be spread over the balance useful life of the asset.

Non Tariff Income

7.64 The amount of Non-Tariff Income as approved by the Commission shall be deducted from the Aggregate Revenue Requirement in calculating the tariff by the Distribution Licensee.

7.65 The Distribution Licensee shall submit full details of his forecast of Non-Tariff Income to the Commission along with his application for determination of tariff. The indicative list of various heads to be considered for Non-Tariff Income shall be as under:

(a) Income from rent of land or buildings;

(b) Income from sale of scrap;

(c) Income from statutory investments;

(d) Interest on delayed or deferred payment on bills;

(e) Interest on advances to suppliers/contractors;

(f) Rental from staff quarters;

(g) Income from hire charges from contactors and others;

(h) Income from advertisements, etc.;

(i) Meter/metering equipment/service line rentals;

(j) Service charges;

(k) Customer charges;

(l) Revenue from late payment surcharge;

(m) Recovery for theft and pilferage of energy;

(n) Miscellaneous receipts;

(o) Prior period income

7.66 The interest earned from investments made out of Return on Equity shall not be included in Non-Tariff Income.

Income from other business

7.67 Where the Distribution Licensee has engaged in any Other Business, an amount equal to one-third of the revenues from such Other Business after deduction of all direct and indirect costs attributed to such Other Business shall be deducted from the Aggregate Revenue Requirement in calculating the tariff of the Distribution Licensee:

Provided that the Distribution Licensee shall follow a reasonable basis for allocation of all joint and common costs between the Distribution Business and the Other Business and shall submit the Allocation Statement, duly audited and certified by the statutory auditors, to the Commission along with his application for determination of tariff:

Provided further that where the sum total of the direct and indirect costs of such Other Business exceeds the revenues from such Other Business, no amount shall be allowed to be added to the Aggregate Revenue Requirement of the Distribution Licensee on account of such Other Business.

Trading of power

7.68 Licensees would be allowed to sell the surplus power if any to any entity outside the State subject to the condition that the losses and gains on such account shall not form part of the licensee's ARR and trading would not be made without meeting the state demand approved by the Commission in the respective ARRs.

Profit sharing

7.69 The licensee will be provided with an approved return at the beginning of the period under review. However, the licensee, if it makes more profit than the approved return on account of improved performance, the Commission shall treat the profit beyond the approved return in the following manner:

(a) One-third amount to be declared by the licensee as dividends to the shareholders is not paid out as dividend, it shall be eligible to be treated as part of equity to that extent and earn returns on the same. Any future declaration of dividend from this shall lead to commensurate decrease in the equity base for the purpose of returns.

(b) One-third amount to be returned back to consumers by way of reduction in the consumer bills as rebate.

(c) One-third amount shall be kept as tariff balancing reserve, which shall be used to reduce sharp rise in ARR in future years. The Commission may allow a part of the total reserve to be returned back to the consumers every 3 years by way of reduction in ARR. The amount in tariff balancing reserve shall not be eligible to be treated as part of equity and would not earn any return for the shareholders. Any return earned on this reserve shall be added back to this reserve

Recovery of Fee

7.70 The distribution licensee shall recover the fees and charges as determined by commission from time to time for filing of petitions or applications before the Commission.

Quality of Supply and consumer services

7.71 The quality of supply and the customer service parameters shall be monitored as per the norms specified by the Commission from time to time.

7.72 The quality of supply and customer service would be used to evaluate the performance of licensees. For this purpose the Commission has laid down Overall Standards of Performance of licensee by way of separate Regulations.

7.73 The Commission will specify various parameters and initiatives to benchmark and monitor quality of supply and customer service from time to time. The Commission shall make an assessment on reliability of baseline data and may prescribe the performance trajectory for each identified parameter for the Control Period:

Provided that the Commission has specified parameters and initiatives to benchmark and monitor quality of supply and customer service in Case No.1 of 2013, in the matter of: Setting out the principles of the Multi Year Tariff (MYT) for the 3rd control period from 01.04.2013 to 31.03.2018. The same will be valid for the 3rd Control Period to till such time the same is revised by the Commission.

7.74 The Licensee shall submit the performance on each parameter in the form and manner directed by the Commission. The Commission shall conduct periodic reviews on the performance of the Licensee with respect to quality parameters.

Other Tariff Principles

7.75 **Peak and Off-peak Tariff**

A differential tariff for peak and off-peak hours is necessary to promote demand side management. The Commission may encourage the distribution licensees to move towards separate peak and off-peak tariffs. The Commission shall stipulate the broad classification of consumers eligible for peak and off-peak tariff, the periods for peak and off-peak and normal consumption.

7.76 **Power Factor and Load Factor Related Tariff**

The Commission may provide rebates/penalty to the consumers for maintaining high or low power factor to promote efficiency of operation and optimum capacity utilisation. To achieve this, the Commission may at a future date consider switching over to kVAh tariff from kWh tariff for consumers having appropriate meters. However, even after switching to kVAh tariff demand charges shall continue to apply. The Commission may also differentiate consumers basing on their load factors.

7.77 **Surcharge**

Surcharge to be levied on wheeling consumers shall be determined by the Commission keeping in view the loss of cross-subsidy from the consumers or category of consumers who have opted for open access to take supply from a person other than the incumbent distribution licensee. Such surcharge determined shall be as per OERC (Determination of Open Access Charges) Regulation, 2006 and subsequent amendment to the same.

7.78 **Wheeling**

(a) The licensee shall provide non-discriminatory open access to the consumers within the period as stipulated by the Commission. For the purpose of tariff for wheeling, the person utilizing wheeling services shall be charged on both cash and kind basis.

(b) The wheeling charge in cash for a consumer category for the present shall be based on postage stamp method which includes cost of distribution system.

(c) Wheeling charge shall be computed taking into account, projected units to be sold and wheeled through distribution licensee network in the ensuing tariff period.

(d) With regard to charges in kind, the normative distribution system loss to be borne by the consumer in the case of wheeling transactions and it shall be based on the voltage levels.

7.79 **Additional Surcharge**

Where a consumer avails open access, the Commission may determine the additional surcharge to meet the fixed costs of distribution licensee arising out of his obligation to supply and permit collection of such additional surcharge for the period the fixed cost remains stranded. Such surcharge determined shall be as per OERC (Determination of Open Access Charges) Regulation, 2006 and subsequent amendment to the same.

7.80 **Cross Subsidy**

The Commission, while determining the tariff, shall see that the tariff progressively, reflects the cost of supply of electricity and the cross-subsidy is reduced. For the purpose of computing cross-subsidy payable by a certain category of consumers the difference between average cost of supply to all consumers of the State taken together and average voltage-wise tariff applicable to such consumers shall be considered.

7.81 **Bulk Supply Tariff**

As per the provisions of the Act, the distribution licensees may buy power directly from a generating station or a trader. The Commission may continue to adopt a differential Bulk Supply Tariff mechanism to address the issues of uniform retail tariffs and different level of cross subsidies that exist on account of the consumer mix, which however will be reviewed by the Commission from time to time.

7.82 **Provision of Subsidy**

(a) If the State Govt. decides to subsidise any consumer or class of consumers in the tariff determined by the Commission, the State Govt. shall pay the amount to compensate the licensee affected by grant of such subsidy in advance.

(b) The Government shall, by notification, declare the consumers or class of consumers to be subsidised.

(c) The licensee shall make an estimate of subsidy to be provided to the consumers or class of consumers as per the Govt. notification and file the same with the Commission for approval.

(d) The Commission shall scrutinize the estimate and may require further details, data, documents in support of the estimates, which the licensees are required to file with the Commission within the stipulated time.

(e) The Commission, on according approval forward the same to the State Govt. with a direction to pay the amount in full with a copy of the approval to the licensee.

(f) On receipt of the approval of the Commission, the Govt. shall pay the amount to the licensees or the affected person within one month of receipt of such approval.

(g) The amount of subsidies shall be available to the licensees in the form of cash only.

(h) The licensee shall pay the subsidy received from the Govt. to the entitled class of consumers in proportion to their energy consumption on actual basis by way of adjustment in the energy bill.

(i) The licensee shall keep proper accounts of subsidy in such manner as approved by the Commission, and render the same to the Commission within 30 days of the closure of the Year of account.

(j) The difference between the subsidy received from the Govt. and actual disbursement to the entitled class of consumers shall be adjusted in the next year.

Provided that no such direction of the State Government to grant subsidy shall be operative if the payment is not made in accordance with the relevant provisions contained in these Regulations. In such a case the tariff fixed by the

Commission shall be applicable to the consumers from the date of issue of tariff orders by the Commission.

8. PROCEDURE FOR TRUING UP

8.1 The distribution licensee may file an application each year for truing up along with the tariff petition filed for the next tariff period and the Commission shall carry out truing up exercise along with the tariff petition filed for the next tariff period:

8.2 Truing-up shall be carried out, on the basis of actual expenses booked in the audited books of account of the Distribution Licensee for the particular year on uncontrollable cost defined in this Regulation and the expenses allowed in the ARR for the corresponding financial year, subject to prudence check by the Commission:

Provided that true up for any period shall be governed by the provisions of the regulation under which the tariff for that year was determined:

Provided that if such variations are large, and it is not feasible to recover in one year alone, the Commission may take a view to create a regulatory asset, as per the regulation 8.3.

8.3 The Commission may create regulatory assets in case of the Distribution Licensee incurring losses on account of force majeure and/or cost variations due to uncontrollable factors:

Provided that the amortization schedule corresponding to the regulatory asset shall be prepared and put in effect along with creation of regulatory asset:

Provided that the carrying cost of the regulatory asset shall be determined by commission from time to time taking into account the State Bank Base Rate for the tenure for which regulatory asset has been created.

9. MISCELLANEOUS

Issue of orders and practice directions

9.1 Subject to the provisions of the Act and these Regulations, the Commission may, from time to time, either on suo-motu basis or on a Petition filed by the applicant, issue orders and practice directions in regard to the implementation of these Regulations.

9.2 The commission, if need arises, due to insufficiency of data, explanation, information etc provided by the petitioner, may issue provisional tariff, till such time final tariff is determined.

Power to remove difficulties

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

Power to Relax

9.4 The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.

Power to Amend

9.5 The Commission, for reasons to be recorded in writing, may at any time vary, alter or modify any of the provisions of these Regulations by amendment.

Interpretation

9.6 If a question arises relating to the interpretation of any provision of these Regulations, the decision of the Commission shall be final.

Saving of Inherent Powers of the Commission

9.7 Nothing contained in these Regulations shall limit or otherwise affect the inherent powers of the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of special circumstances of the matter or class of matters and for the reasons to be recorded in writing, deems it necessary or expedite to depart from the procedure specified in these Regulations.