

# HARYANA ELECTRICITY REGULATORY COMMISSION

## Notification

The 19<sup>th</sup> of December, 2008

**Regulation No. HERC/ 20 / 2008:** In exercise of the powers conferred on it by sub-section (1), and clause (zd) of sub-section (2) of section 181 of the Electricity Act 2003 (Act 36 of 2003), and all other powers enabling it in this behalf, the Haryana Electricity Regulatory Commission, after previous publication, hereby frames the following Regulations:

### CHAPTER – I

#### GENERAL

1. **Short Title, Commencement, and interpretation.** – (1) These Regulations may be called the Haryana Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2008.

(2) These regulations shall come into force on the date of their publication in the Haryana Government Gazette.

(3) These regulations shall extend to the State of Haryana.

(4) The Punjab General Clauses Act 1898 (Act I of 1898) as applicable to the State of Haryana shall apply to the interpretation of these regulations.

2. **Scope and extent of application.** - (1) These regulations shall apply where the Commission determines tariff for Transmission of electricity by transmission licensee to distribution licensee (s) under Section 62 & 64 of the Act.

(2) Where tariff has been determined through the transparent process of bidding in accordance with section 63 of the Act, the Commission shall adopt such tariff in accordance with the provisions of the Act.

(3) Where tariff has been determined bilaterally between the distribution licensee and the transmission licensee and the power purchase agreement has been approved by the Commission based upon such tariff, the Commission shall adopt such tariff together with the terms and conditions of such approved bulk power transmission agreement.

3. **Definitions.** - In these regulations, unless the context otherwise requires, -

(a) ‘**Act**’ means the Electricity Act, 2003.

(b) ‘**Additional Capitalization**’ means the capital expenditure actually incurred after the date of commercial operation and admitted by the Commission after prudent check.

- (c) **‘Authority’** means Central Electricity Authority referred to in Section 70 of the Act.
- (d) **‘Availability’**, in relation to a transmission system for a given period means the time in hours during that period the transmission system is capable to transmit electricity at its rated voltage and shall be expressed in percentage of total hours in the given period and calculated as per CERC formula specified from time to time.
- (e) **‘Bank Rate’**, for the purpose of these regulations means the rate at which the Reserve Bank of India (RBI) lends fund to banks against approved securities, purchases, discounts or eligible bills of exchange.
- (f) **‘Beneficiary’**, for the purpose of these regulations, means the person who has availed of the transmission system on payment of transmission charges. This includes a licensee, a transmission licensee, a person who has set up a captive generating plant or a consumer availing open access, utilising transmission system of a transmission licensee.
- (g) **‘Date of Commercial Operation’** (COD) means the date of charging the transmission system or part thereof to its rated voltage level or seven days after the date on which it is declared ready for charging by the transmission licensee, but is not able to charge for reasons not attributable to the transmission licensee, its suppliers or contractors

Provided that the date of commercial operation shall not be a date prior to the scheduled date of commercial operation mentioned in the transmission service agreement unless mutually agreed to by all parties.

- (h) **‘Commission’** means the Haryana Electricity Regulatory Commission.
- (i) **‘Contracted Power’** means the power in MW which the transmission licensee has agreed to carry or which the transmission licensee is required to carry as per allocation / agreement between the importing and exporting utility;
- (j) **‘Core Business’**, for the purpose of these regulations, the core business means the regulated activities of transmission and does not include any other business or activities of the company like consultancy, telecommunication etc.
- (k) **‘Cut off Date’** means the date of first financial year closing after one year of the date of commercial operation.
- (l) **‘Existing Transmission System’** means the transmission system declared under commercial operation from a date prior to 1.4.2008.
- (m) **‘Licensee’** shall mean persons granted license under Section 14 or is exempted under Section 13 of the Act including deemed licensee.
- (n) **‘Long Term Transmission Customer’** means a person availing or intending to avail access to the intra – state transmission system for a period of twenty five years or more.

- (o) **‘Operation and Maintenance Expenses or O&M Expenses’** means the expenditure incurred in operation and maintenance of the transmission system, including part thereof and includes the expenditure on manpower, repairs, spares, consumables, insurance and other overheads.
- (p) **‘Project’** includes the transmission system comprising specified transmission lines, sub-stations and associated equipment.
- (q) **‘Rated Voltage’** means the manufacturers design voltage at which the transmission system is designed to operate or such lower voltage at which the line is charged, for the time being, in consultation with supplier and receiver of electricity.
- (r) **‘Short Term Transmission Customer’** means a transmission customer other than the long-term transmission customer.
- (s) **‘Transmission Service Agreement’** means the agreement, contract, memorandum of understanding, or any such covenant, entered into between the transmission licensee and the beneficiary of the transmission service.
- (t) **‘Transmission licensee’** means a person granted license for intra-state transmission of electricity and includes any person deemed to be a transmission licensee for intra-state transmission of electricity including its bilateral interstate transmission lines owned and operated by it subject to obtaining of specific approval of the Commission.
- (u) **‘Transmission System’** means a transmission line with associated sub-stations or a group of transmission lines inter-connected together along with associated sub-stations including equipment associated with transmission lines and sub-stations.
- (v) **‘Tariff’** shall mean, in relation to the transmission licensee, the schedule of charges for transmission including Commission approved tariff (s) and terms and conditions.
- (w) **‘Unscheduled Interchange’** (UI) shall mean unscheduled interchange as per CERC ABT order as amended from time to time.
- (x) **‘Year’** shall mean, the current financial year ending on 31<sup>st</sup> March, the preceding financial year shall be the ‘previous year’; the succeeding financial year shall be the ‘ensuing year’.
- (y) All other expressions used herein but not specifically defined herein but defined in the Act shall have the meaning assigned to them in the Act. The other expressions used herein but not specifically defined in the regulations or in the Act but defined under Haryana Electricity Reform Act, 1997 (Act 10 of 1998) shall have the meaning assigned to them under the said Act, provided that such definitions in the Haryana Electricity Reform Act, 1997 are not inconsistent with the provisions of the Electricity Act, 2003.

## CHAPTER - II

### GENERAL GUIDING FACTORS FOR DETERMINATION OF TRANSMISSION TARIFF

4. **Determination of Transmission Tariff.** – (1) The Commission shall, by an order, determine the transmission tariff, under the Act, for transmission of electricity by a transmission licensee to a beneficiary (ies)

(2) The tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. In the event of failure on the part of the transmission licensee to file the Aggregate Revenue Requirement (ARR) / tariff petition under regulations 7 or inability of the Commission to issue tariff order before 1<sup>st</sup> of April of the ensuing year, the tariff already in vogue shall continue to be operative upto such period till which the Commission issues tariff order on the petition of the transmission licensee or such tariff which may be allowed to continue for a further period with such variations, or modifications, as may be ordered by the Commission.

(3) Tariff determined by the Commission and the directions given in the tariff order by the Commission shall be the *quid pro quo* and mutually inclusive. The tariff determined shall, within the period specified by it, be subject to the compliance of the directions to the satisfaction of the Commission and their non-compliance shall lead to such amendment, revocation, variations and alterations of the tariff, as may be ordered by the Commission.

5. **Guiding Factors for Determination of Tariff.** – The commission shall, while determining the tariff, keep in view the factors, namely:-

(a) the principles that will –

- (1) encourage efficiency, economy, competition, good performance, optimum investments and reduction of costs;
- (2) reward efficiency in performance;
- (3) stress commercial aspects;
- (4) promote cogeneration and generation of electricity from renewable sources of energy;

(b) the guidelines and procedure, as may be laid down under sub-section (5) of section 62, for calculating expected revenues from the tariff and charges and tariff filing;

(c) multi year tariff principles;

(d) National Electricity Policy and Tariff Policy;

(e) the need to rationalize tariff on the basis of bench-marked and performance based costs of transmission.

**6. Charging of permissible tariff.** – (1) No transmission licensee shall, without prior approval of the Commission, charge any tariff or other charges:

Provided that the existing tariff being charged by the transmission licensee shall continue to be levied, after the date of the commencement of these regulations, for such period as may be specified by a notification, without prejudice to the powers of the Commission to take up any matter relating to tariff.

(2) The transmission company shall not charge a tariff in excess of the tariff determined by the Commission and if any transmission licensee recovers a price or charge exceeding the tariff determined under these regulations, without prejudice to any other liability incurred by the transmission licensee, -

(a) the excess amount shall be recoverable by the person who has paid such price or charge, along with interest equivalent to the bank rate; and

(b) the transmission licensee shall be liable to penalties as are prescribed under section 142 and 146 of the Act.

(3) If the Commission is satisfied that the expected revenue of a transmission licensee differs significantly from the revenue it is permitted to recover, it may order the transmission licensee to file an application within the time specified by the Commission to amend its tariffs appropriately failing which the Commission shall *suo moto* start the proceedings for determination of tariff.

## CHAPTER – III

### FILING OF AGGREGATE REVENUE REQUIREMENT

**7. Filing of Aggregate Revenue Requirement.** – (1) For the determination of tariff, each intra-state transmission licensee shall, for the ensuing financial year, file the Annual Revenue Requirement (ARR), both on hard and soft format, along with requisite fee in accordance with the provisions of HERC (Fee) Regulations, 2005, in the formats provided in APPENDIX – 1, each year, by 30<sup>th</sup> November.

(2) The Commission, while determining the tariff applicable to transmission licensee shall be guided by the principles and methodologies specified by the Central Electricity Regulatory Commission (CERC) and the terms and conditions of such tariff notified by the said Commission.

Provided that the Commission for the purpose of determination of tariff may, for sufficient reasons and after taking into consideration factors, as it may deem fit, decide to differ from the approved capital expenditure and deviate from the terms and conditions for determination of tariff notified by the CERC

(3) The ARR/report referred in sub regulation (1) shall include all the relevant details including but not restricted to the following:

- (a) capital investments, financial costs and rate base;
- (b) working capital, interest on working capital, O&M expenditure and depreciation;
- (c) Foreign exchange rate variation;
- (d) Return on equity component;
- (e) The data should be provided for three years.
  - 1) Audited figures for the previous year;
  - 2) Information for the previous year shall be based on the audited accounts, in its absence; the audited accounts for the immediately preceding year should be filed with the un-audited accounts of the previous year;
  - 3) Estimated figures for the current financial year should be based on actual figures for the first six months of the current financial year and the estimated figures for the second six-month of the current financial year. The estimated figures for the second half of the current financial year should be based on actual audited figures of the second half of the previous financial year with adjustments that reflect known and measurable changes expected to occur between them. These adjustments must be specifically documented and justified.
  - 4) Forecasted figures for the ensuing financial year should be based on the current year figures, with adjustments that reflect known and measurable changes expected to occur between them. These adjustments must be specifically documented and justified.

- (f) The information to be provided by the transmission licensee shall also include:
- (i) a statement of current tariff rates and all applicable terms and conditions, and the expected full year revenue from the current tariff rates in the year in which the new tariffs are to be implemented.
  - (ii) a statement of the proposed tariff rate, price and charge, including a full statement of all applicable terms and conditions. This statement should be shown in a form appropriate to the proposed tariff structure. Details should also be supplied of the publicity intended to be given to new tariff options when they are to be implemented.
  - (iii) a statement of the expected full – year revenue of the proposed tariff for the year in which the tariff is to be implemented.
  - (iv) if the proposed tariff is to be introduced after the beginning of the financial year a statement of the proportion of expected revenue and quantities supplied under each proposed rate during the remaining months of the financial year should be included.
  - (v) a statement of the estimated change in annual expected revenues that would result from the proposed tariff changes in the year in which they are to be implemented, stated in ‘Rupees’ and ‘Percentage’ terms.
  - (vi) a study of marginal cost of the transmission business, including time – differentiated (time of use) short term marginal costs by voltage levels (wherever applicable) and a written explanation of the method used to calculate marginal costs. In addition, the statement shall include a comparison of the percentage of marginal costs recovered by the current and proposed tariff.
  - (vii) a written explanation of the rationale for the proposed changes in tariff and other charges, along with justification of the return on equity being requested.
  - (viii) a statement containing full details of the calculation of any subsidy / subventions received, due or assumed to be due from the State Government.
  - (ix) a written explanation supported by calculations of tariff rates, of any proposed new tariff.
  - (x) such other information as the Commission may direct from time to time;
- (4) The transmission licensee shall furnish such additional information, particulars and documents as the Commission may require from time to time for the purpose of validating the data provided in the ARR submitted as per sub-regulation (1)
- (5) Where the proposed date of implementation falls within a financial year for which the Commission has previously approved the aggregate revenue requirement, the filing of proposed tariff should be accompanied by a copy of the relevant Annual Revenue

Requirement, approved by the Commission, along with a copy of the order passed by the Commission in relation to that report.

(6) Where the Commission has not approved the aggregate revenue requirement for the financial year in which the proposed tariff is to be implemented, the Annual Revenue Requirement should accompany the filing of proposed tariff for that financial year.

(7) If the transmission licensee believes that the amendments being proposed are minor in nature and will not change significantly either the expected aggregate revenue or the bills of any licensee, it may request waiver of any of the above requirements from the Commission.

(8) Within 7 (seven) days of the filing of the ARR the transmission licensee shall publish for the information of the public, the contents of the ARR and proposed tariff in an abridged form in such manner as the Commission may direct and shall provide copies of the application and documents filed with the Commission at a price not exceeding normal photocopying charges. If the transmission licensee should also post the ARR / tariff petition on its website.

(9) The Commission may implement differential tariff based on 'Time of Use' (ToU) viz 'peak tariff' and 'off peak tariff' depending upon the inter and intra-day loading of the transmission lines.

(10) The Commission may implement multiyear tariff for the transmission licensee. The Commission shall notify the control period (the period for which MYT is applicable) separately. The base year (of the control period) revenue & tariff shall be determined by the Commission after due diligence of the submission made by the transmission licensee. For the purpose of computation of revenue requirement, and also for setting the targets for each year under review, the Commission may, by order, broadly classify the costs incurred by the transmission licensee as, -

(a) controllable costs; and

(b) un-controllable costs:

(i) The controllable cost shall include (a) employee cost (b) repair & maintenance (c) Administrative & General Expenses. These components of Operation & Maintenance Cost shall be escalable from the base year actual cost as per the indices or formula determined by the Commission at the time of determination of base year tariff. Any such costs over and above the approved escalation shall not be considered for the purpose of calculation of tariff.

(ii) The uncontrollable cost shall include (a) fuel cost (b) costs on account of inflation (c) taxes and duties etc. These costs as determined by Commission shall be allowed as pass through.

(iii) In case the transmission licensee fails to achieve any target to be achieved during the control period, as determined by the Commission, the resulting financial losses shall be borne by it and the gain, if any, shall be equally shared between the transmission licensee and the beneficiary (ies) except short term transmission customer (s).



(iv) The Commission shall review the performance of the transmission licensee at the end of the control period. Subsequent to the comprehensive review the Commission may re-set the targets and other parameters that it deems fit.

(11) The transmission licensee (s) owning generating station (s) / having interest in generating station (s) shall maintain and submit separate accounts for the generation business.

8. **Business Plan.** - The transmission licensee shall prepare and file for the approval of the Commission, a comprehensive business plan. The business plan for five years period with an annual rolling plan shall incorporate a realistic projection of all parameters (financial / technical). The basis and data used for projection (including data source) shall also be provided as annexure to the business plan. The Licensee shall undertake annual re-appraisal of the business plan submitted vis-à-vis actual performance along with an explanation of the deviations and remedial measures taken to keep the business plan on track.

9. **Capital Investment Plan.** - (1) The transmission licensee shall, file a detailed capital investment plan in accordance with the provision of the State Grid Code for the next five years by 30th September each year, for approval of the Commission. The investment plan shall clearly establish a pay – back period and correlations between investments proposed and objectives of investment e.g. improvement in operational norms.

(2) The costs corresponding to the capital investment plan approved by the Commission shall only be considered for computation of revenue requirement in any given year.

(3) The capital investment plan shall show, separately, ongoing projects that are expected to spill over into year under review and new project that will commence during the period under consideration and spill over to the subsequent periods. Sufficient justification should be provided for the time reckoned as construction period. Any time and cost over-runs shall be reported with proper justification.

## CHAPTER – IV

### TARIFF COMPONENTS

**10. Components of Tariff.** -(1) The Transmission Licensee including the STU shall segregate its accounts function wise for its transmission system (line wise & bay wise) and for its load dispatch centre over a period of two years and keep the Commission informed about the progress made on half yearly basis. The components of intra-state transmission tariff shall include the following:

- (a) **Network User Charge**, to reflect the cost of owning (capital investment), servicing and maintaining the transmission assets in order to transfer bulk power to and from different locations.
- (b) **System Operation Charge**, to reflect the cost of operating the State Load Dispatch Center (SLDC) including the cost of owning & maintaining it. These shall be levied as SLDC charges to the beneficiaries / users of the services of SLDC in accordance with the provisions of SLDC charges regulations of the Commission.
- (c) **Reactive Power Charges**, to reflect the voltage related drawl of reactive power. The mechanism of payment or receipt for reactive power drawl or return, as the case may be, including the pricing, shall be as decided by the Commission. The ARR of the transmission licensee for transmission of electricity to beneficiary (ies) shall comprise of the following components

(2) The annual revenue requirement of the transmission shall be worked out in the following manner:

ARR of the transmission licensee
<u>A</u>
(a) Interest on loan capital;
(b) Depreciation and Advance Against Depreciation;
(c) Return on equity component;
(d) Operation and maintenance expenses;
(e) Foreign exchange rate variation;
(f) Interest on allowed working capital; and
(g) FBT and Taxes, if any, on income.
(h) Contribution to contingency reserve
Total (A)

Less
<b><u>B</u></b>
(a) Non-tariff income
(b) Revenue from non core business
(c) Income from use of transmission licensee's system for any other business other than core business.
(d) Refund of reactive energy charges, open access charges and transmission charges received from the Central Transmission Utility for the use of the transmission network of the transmission licensee or as decided by the Commission on a case to case basis.
(e) Any transmission charges recovered from beneficiaries of special treatment under the State Government policy directives in respect of generation of electricity from non-conventional energy sources or captive power plants or from short term intra – state open access customers.
(f) Any grant / subvention, other subsidy, provided by the State Government.
Total (B)
ARR = (A) – (B)

11. **Norms of Operation.** - The norms of operation shall be as under: -

(a) **Auxiliary Energy Consumption in the sub-station:**

The auxiliary energy consumption in the sub-station for the purpose of air-conditioning, lighting, technical consumption, etc shall be considered as a part of O&M expenses as per the norms determined by the Commission.

(b) **Target Availability for recovery of full transmission charges:**

The full transmission charges shall be recoverable at the target availability of 98%. Recovery of fixed charges below 98% target availability shall be on a pro-rata basis. The target availability shall be computed substation wise and integrated for all sub stations affecting supply to the beneficiary (ies) in the manner as may be laid down by the Commission in its Regulations on Standards of performance for Transmission licensee. At zero availability, no fixed charges shall be payable.

12. **Capital Cost.** – (1) the actual expenditure incurred on the date of completion of the project shall form the basis for fixation of final tariff. Investments made prior to 1/04/2008 in the case of the existing projects shall be accepted for reckoning capital cost on the basis of audited accounts. The final tariff shall be determined based on the capital expenditure allowed by the Commission and the expenditure actually incurred up to the date of commercial operation of the project and shall include capitalized initial spares, subject to ceiling norms of 1.5% percent of plant and equipment cost.

(2) The admissibility of the capital cost shall be subject to the prudence check by the Commission. This shall, however, be limited to the reasonableness of the capital cost, financing structure, interest during construction, working capital margin, efficient technology and such other matters. Any benefit from capital restructuring shall be passed on to the beneficiary (ies).

Provided that where the bulk power transmission agreement entered into between the transmission licensee and the beneficiary (ies) provides a ceiling of actual expenditure, the capital expenditure shall not exceed such ceiling for determination tariff;

Provided also that where the Commission has given ‘in principle’ acceptance to the estimates of project capital cost and financing plan, the same shall be the guiding factor for applying prudence check on the actual capital expenditure;

Provided also that in case of the existing projects, the capital cost admitted by the Commission prior to 1.4.2008 shall form the basis for determination of tariff.

**13. Additional capitalisation.** - (1) The capital expenditure, mentioned below, within the original scope of work actually incurred after the date of commercial operation and up to the cutoff date may be admitted by the Commission, subject to prudence check:

1	Deferred liabilities
2	Works deferred for execution
3	Procurement of initial capital spares in the original scope of work, subject to ceiling specified in regulation 12
(iii)	Liabilities to meet award of arbitration or the satisfaction of the order or decree of a court
(iv)	On account of change in law

Provided that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of project.

(2) The capital expenditure of the following nature actually incurred after the cutoff date shall be admitted by the Commission, subject to prudence check:

- (i) deferred liabilities relating to works/services within the original scope of work;
- (ii) liabilities to meet award of arbitration or satisfaction of the order or decree of a court;
- (iii) on account of change in law;
- (iv) any additional works/services which have become necessary for efficient and successful operation of the project, but not included in the original project cost; and

(3) Impact of additional capitalisation in tariff revision within the approved project cost shall be considered by the Commission once in a tariff period.

**Note 1**

Any expenditure admitted on account of committed liabilities within the original scope of work and the expenditure deferred on techno-economic grounds but falling within the original scope of work shall be serviced in the normative debt-equity ratio specified in regulation 14.

**Note 2**

Any expenditure on replacement of old assets shall be considered after writing off the entire value of the original assets from the original capital cost.

**Note 3**

Any expenditure admitted on account of new works not in the original scope of work shall be serviced in the normative debt-equity ratio specified in regulation 14

**Note 4**

Any expenditure admitted on renovation and modernization and life extension shall be serviced on normative debt-equity ratio specified in regulation 14 after writing off the original amount of the replaced assets from the original capital cost.

**14. Debt Equity Ratio.** - (1) In case of the existing projects, debt equity ratio considered by the Commission for the period ending 31.3.2008 shall be considered for determination of tariff with effect from 1.4.2008:

Provided that in cases where the tariff determined by the Commission for the period ending 31.3.2008 has not considered the debt equity ratio, the same shall be as may be decided by the Commission:

Provided further that in case of the existing projects where additional capitalisation has been completed on or after 1.4.2008 and admitted by the Commission under Regulation 13, equity in the additional capitalisation to be considered shall be,-

- (a) 30% of the additional capital expenditure admitted by the Commission; or
- (b) equity approved by the competent authority in the financial package, for additional capitalization; or
- (c) actual equity employed, whichever is the least:

Provided further that in case of additional capital expenditure admitted under the second proviso, the Commission may consider equity of more than 30% if the transmission licensee is able to satisfy the Commission that deployment of such equity of more than 30% was in the interest of general public.

(2) In case of the projects for which investment approval was accorded prior to 1.4.2008 and which are likely to be declared under commercial operation during the period after 1.4.2008 the debt and equity in the ratio of 70:30 shall be considered:

Provided that where equity actually employed to finance the project is less than 30%, the actual debt and equity shall be considered for determination of tariff:

Provided further that the Commission may in appropriate cases consider equity higher than 30% for determination of tariff, where the transmission licensee is able to establish to the satisfaction of the Commission that deployment of equity higher than 30% was in the interest of general public.

(3) In case of the projects for which investment approval is accorded on or after 1.4.2008, debt and equity in the ratio of 70:30 shall be considered for determination of tariff:

Provided that where equity actually employed is more than 30%, equity in excess of 30% shall be treated as notional loan:

Provided further that where deployment of equity is less than 30%, the actual debt and equity shall be considered for determination of tariff.

(4) The debt and equity amount arrived at in accordance with above clause (1), (2) or (3), as the case may be, shall be used for calculation of interest on loan, return on equity, advance against depreciation and foreign exchange rate variation.

**15. Interest on loan capital.** – (1) Interest on loan capital shall be computed loan-wise on the loans arrived at in the manner indicated in Regulation 14;

(2) The loan outstanding as on 1.4.2008 shall be worked out as the gross loan in accordance with Regulation 14 minus cumulative repayment as admitted by the Commission or any other authority having power to do so, up to 31.3.2008. The repayment for the subsequent periods shall be worked out on a normative basis;

(3) The transmission licensee shall make every effort to re-structure his loan portfolio from time to time as long as it results in net benefit to the beneficiary (ies). The costs associated with such re-financing shall be borne by the transmission licensee;

(4) The changes to the loan terms and conditions shall be reflected from the date of such re-financing and benefit passed on to the beneficiary (ies);

(5) In case of dispute, any of the parties may approach the Commission with proper application alongwith all the relevant details. However, the beneficiary (ies) shall not withhold any payment ordered by the Commission to the transmission licensee during pendency of any dispute relating to re-financing of loan;

(6) In case any moratorium period on repayment of loan is availed of by the transmission licensee, depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly;

(7) The transmission licensee shall not make any profit on account of re-financing of loan and interest on loan;

**16. Depreciation and Advance Against Depreciation.** - (1) For the purpose of transmission tariff depreciation and advance against depreciation shall be computed in the following manner, namely:

(a) **Depreciation:**

- (i) the value base for the purpose of depreciation shall be the historical cost of the asset;
  - (ii) depreciation shall be calculated annually, based on straight line method over the useful life of the asset and at the rates prescribed in Appendix II to these regulations.
  - (iii) The residual life of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the historical capital cost of the asset. Land is not a depreciable asset and its cost shall be excluded from the capital cost while computing 90% of the historical cost of the asset. The historical capital cost of the asset shall include additional capitalisation on account of Foreign Exchange Rate Variation, if any, already allowed by the Commission upto 31.03.2008.
  - (iv) on repayment of entire loan, the remaining depreciable value shall be spread over the balance useful life of the asset.
  - (v) depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on *pro rata* basis.
- (b) **Advance Against Depreciation:** In addition to allowable depreciation, the transmission licensee shall be entitled to Advance Against Depreciation, computed in the manner given hereunder:

AAD = Loan repayment amount as per regulation 15 subject to a ceiling of 1/10th of loan amount as per regulation 14 minus depreciation as per Appendix II

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;

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.

17. **Return on Equity.** – (1) Return on equity shall be computed on the equity base determined in accordance with regulation 14 @ 14% per annum or as determined by the Commission from time to time.

Provided that equity invested in foreign currency shall be allowed a return up to the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing.

(2) The premium raised by the transmission licensee while issuing share capital and investment of internal resources created out of free reserve of the transmission licensee, if any, for the funding of the project, shall also 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 project and forms part of the approved financial package.

**18. Operation and Maintenance expenses.** – (1) The O&M expenses shall comprise of the following components:

- (a) Employees costs: The employee cost shall comprise of the cost incurred for working as well as the retired employees of the transmission licensee. The cost of working employees comprises salary, dearness pay, dearness allowance and other allowances such as HRA,CCA, LTC, medical reimbursement etc. The cost of retired employees and those retiring during the year, for which ARR has been filed, shall include the liability of the transmission licensee (s) towards pension, gratuity and leave encashment benefit etc. as applicable under rules.
- (b) Repair & Maintenance Expenses: The R&M expenses shall be the cost of the upkeep of the transmission system. The R&M expenses shall be allowed @ 1.3% of the average Gross Fixed Assets (GFA) of the transmission licensee (s) or as may be specified by the Commission from time to time
- (c) Administrative and General Expenses: A&G expenses shall be allowed as per actual expenditure incurred by the transmission licensee (s) subject to prudence check by the Commission.

(2) The capitalisation of the O&M expenses shall be allowed as per audited accounts of the transmission licensee (s).

**19. Foreign Exchange Rate Variation.** - Foreign exchange rate variation shall not be a pass through. Appropriate costs of hedging and swapping to take care of foreign exchange rate variations shall be allowed for foreign currencies denominated debt.

**20. Interest on Working Capital.** – (1) The rate of interest shall be equal to short-term Prime Lending Rate of State Bank of India as applicable on 1<sup>st</sup> April of the year in which the project or a unit thereof is declared under commercial operation. The interest on working capital shall be payable on normative basis notwithstanding that the transmission licensee has not taken working capital loan from any outside agency.

(2) The norms for determination of working capital shall be as specified below.

- (a) Operation and Maintenance expenses for 1 month.
- (b) Maintenance spares @ 1% of the gross fixed assets of the transmission licensee as on 1.4.2008 or the date of commercial operation, whichever is later; and escalated @ 4% per annum or as allowed by the Commission.
- (c) Receivables equivalent to 2 months of transmission charges calculated on "target availability".

**21. Income Tax.** – (1) Tax on the income streams of the transmission licensee from its core business, shall be computed as an expense at the rates applicable from time to time and shall be recovered from the beneficiary (ies).



(2) Any under-recovery or over-recovery of tax on income shall be adjusted every year on the basis of income-tax assessment under the Income-Tax Act, 1961, as certified by the statutory auditors.

Provided that tax on any income stream other than the core business shall not constitute a pass through component in tariff and tax on such other income shall be payable by the transmission licensee.

Provided further that the benefits of tax-holiday as applicable in accordance with the provisions of the Income-Tax Act, 1961 shall be passed on to the beneficiary (ies).

Provided also that in the absence of any other equitable basis the credit for carry forward losses and unabsorbed depreciation shall be given in the proportion as provided in the second proviso to this regulation.

**22. SLDC Charges.** – SLDC charges shall be as per SLDC regulations notified by the Commission.

**23. Contribution to contingency reserves.** - (1) Appropriation to the Contingencies Reserve shall not be allowed. However, the amount already appropriated, if any, shall be invested in securities authorised under the Indian Trusts Act, 1882 as amended from time to time.

(2) The Contingency Reserve shall not be drawn upon during the term of the license except to meet such charges as may be approved by the Commission

**24. Non-Tariff Income.** - The amount of non-tariff income relating to the transmission business as approved by the Commission shall be deducted from the aggregate revenue requirement in determining the annual transmission charges of the transmission licensee.

Provided that the transmission licensee shall submit full details of his forecast of non-tariff income to the Commission in such form as may be stipulated by the Commission from time to time.

**25. Income from Other Business.** – The transmission licensee may engage in any other business, with prior intimation to the Commission, for optimum utilization of its assets.

The income from other business shall be utilised by the transmission licensee for reducing its charges for transmission and wheeling in accordance with the Regulations on treatment of income from other business notified by the Commission.

**26. Transmission losses.** - The energy losses in the transmission system of the transmission licensee, as determined by the State Load Despatch Centre and approved by the Commission, shall be borne by the beneficiary (ies) in proportion to their usage of the intra-state transmission system.

Provided that the Commission may stipulate a trajectory for transmission losses to be achieved by the transmission licensee:

Provided also that the Transmission Licensee shall not be permitted to recover, under these regulations, energy losses arising from theft, pilferage, failure to meter or bill for electricity transmitted.

27. **Payment of Transmission Charges.** - (1) Annual transmission charges shall be fully recoverable at 98% target availability. Payment of transmission charges below 98% shall be on pro-rata basis. The transmission licensee may recover its annual revenue requirement by way of a fixed charge based on transformation capacity, contracted capacity, a charge based on energy transmitted, connectivity charge, reactive energy charge or a combination of these charges. The transmission charges shall be calculated on a monthly basis. In case of more than one beneficiaries of the transmission system, including the distribution licensees and long term open access customers, the monthly transmission charges leviable on each beneficiary shall be computed as per the following formula unless amended by the Commission.

$$\text{Transmission Charges} = \frac{\text{ATC}}{12} \times \frac{\text{CA}}{\text{CS}}$$

Where, ATC = Annual Transmission Charges payable by the beneficiaries, after deducting total transmission charges paid by the short term open access customers; other income, as decided by the Commission, to be passed on to the beneficiaries; reactive energy charges and transmission charges received from the CTUs .

CA = Transformation Capacity Allocated to each beneficiary individually including long term open access transmission customers.

CS = Sum of long term Transformation Capacity of the intra – state transmission system.

(2) The transmission losses shall be allocated to the beneficiaries / users of the intra – state transmission system in proportion to the energy drawn.

28. **Incentive.** – (1) The transmission licensee shall be entitled to incentive on achieving annual availability beyond the target availability of 98% provided no incentive shall be payable above the availability of 99.75%.

Incentive shall be worked out as under:

$$I = \text{ATC} \times (\text{AA} - \text{TA}) / \text{TA}$$

**Where:**

I = Incentive

ATC = Annual Transmission Charges.

AA = Annual Availability Achieved.

TA = Target Availability.

(2) Incentive shall be shared by the long-term customers in the ratio of their average allocated capacity.

29. **Rebate and late payment surcharge.** – Rebate for timely payment and surcharge for late payment shall be leviable at the rates as may be applicable from time to time.

## CHAPTER – V

### TARIFF ORDER AND REVISION THEREOF

30. **Hearing.** – (1) The Commission may hold proceedings on the ARR calculations given by the transmission licensee (s) and may hear such persons as the Commission may consider appropriate to decide on such ARR calculations.

(2) The procedure of hearing on the ARR of the transmission licensee (s) shall be as per the provisions of the HERC (Conduct of Business) Regulations, 2004 or in the manner as the Commission may decide from time to time.

(3) Where the Commission is satisfied that the appointment of Consultant is essential in order to arrive at just and fair conclusion in any matter before it and so appoints consultant, it may require the transmission licensee to pay for the same and the same shall be pass through in the ARR.

31. **Order of the Commission.** – (1) Upon hearing the transmission licensee and such other parties and upon making such other inquiry as the Commission considers to be appropriate, the Commission shall pass an order in accordance with section 64 of the Act.

32. **Removal of difficulties.** - If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by an order, make such provision, not inconsistent to the provision of the Act and these regulations, as may appear to be necessary for removing the difficulty.

33. **Powers to amend.** - The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations.

34. **Repeal.** - The provisions relating to transmission tariff of Haryana Electricity Regulatory Commission (Tariff) Regulations, 1999 shall stand repealed from the date of coming into force of these regulations.

By Order of the Commission

Secretary

**APPENDIX – II**  
**(Depreciation Schedule)**

Description of Assets	Fair life (years)		Depreciation (Straight line)
	1	2	3 = (2/1)
<b>A. Land (Owned)</b>	Infinity	Depreciation at 90% of the asset value i.e. 10% residual value (value to include additional capitalization)	Depreciation Rate (%)
Land (held under lease)/ cost of clearing	Period of lease (or period remaining unexpired/at the date of clearing the site)		
<b>B. New Assets (purchased after 31st March 2005)</b>			
<b>a. Plant and machinery in projects/including plant foundations</b>			
i) Hydro-electric	35	90	2.57
ii) Thermal-electric / Waste heat recovery ancillaries and plants.	25	90	3.60
iii) Liquid Fuel/Diesel / Gas plants.	15	90	6.00
<b>b. Cooling towers and circulating water systems</b>	25	90	3.60
<b>c. Hydraulic works forming part of Hydro-electric systems including:-</b>			
i) Dams, Spillways, weirs, canals, reinforced concrete Flumes and syphons	50	90	1.80
ii) Reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge (tanks) hydraulic control valves and other hydraulic works	35	90	2.57
<b>d. Building &amp; civil engineering works of permanent character excluding those mentioned above</b>			
i) Offices & showrooms	50	90	1.80
ii) Containing thermo-electric generating plant	25	90	3.60
iii) Containing hydro-electric generating plant	35	90	2.57
iv) Temporary erection such as wooden structures	5	90	18.00
v) Roads other than kutchra roads	50	90	1.80
vi) Others	50	90	1.80
<b>e. Transformers, transformer (Kiosk) sub-station equipment &amp; other fixed apparatus (including plant foundations)</b>			
i) Transformers (including foundations) having a rating of 100 kilo volt amperes and over	25	90	3.60

ii) Others	25	90	3.60
<b>f. Switchgear including cable connections</b>	25	90	3.60
<b>g. Lightning arrestors</b>			
i) Station type	25	90	3.60
ii) Pole type	15	90	6.00
iii) Synchronous condensor	35	90	2.57
<b>h. Batteries</b>	5	90	18.00
i) Underground Cable including joint boxes and disconnected boxes	35	90	2.57
ii) Cable duct system	50	90	1.80
<b>i. Overhead lines including supports:</b>			
i) Lines on fabricated steel operating at nominal voltages higher than 66 kV	35	90	2.57
ii) Lines on steel supports operating at nominal voltages higher than 13.2 kilovolts but not exceeding 66 kilovolts	25	90	3.60
iii) Lines on steel or reinforced concrete supports	25	90	3.60
iv) Lines on treated wood supports	25	90	3.60
<b>j. Meters</b>	15	90	6.00
<b>k. Self propelled vehicles</b>	5	90	18.00
<b>l. Air conditioning plants:</b>			
i) Static	15	90	6.00
ii) Portable	5	90	18.00
<b>M. i) Office furniture and fittings</b>	15	90	6.00
ii) Office equipments	15	90	6.00
iii) Internal wiring including fittings and apparatus	15	90	6.00
iv) Street light fittings	15	90	6.00
<b>n. Apparatus let on hire</b>			
i) Other than motors	5	90	18.00
ii) Motors	15	90	6.00
<b>o. Communication equipment:</b>			
i) Radio and high frequency carrier system	15	90	6.00
ii) Telephone lines and telephones	15	90	6.00
<b>p. Assets by way of transfer schemes or not otherwise mentioned in the above schedule.</b>	Reasonable period as determined by the Commission on a case to case basis having regard to the nature, age and condition of the assets at the time of its acquisition by the Transmission licensee/ Licensee		