

To

Date: 31.07.2023

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**Subject: Terms and Conditions of Tariff for the period commencing from 1st
April, 2024 – Approach Paper thereof.**

Reference: L-1/268/2022/CERC dated 26.05.2023

Sir,

1. It is fact that the major component of distribution retail tariff comprises of power purchase cost from generating companies, traders and transmission Tariff. Around 80-85 % of the distribution tariff is power purchase cost. It is also fact that since distribution companies are purchasing electricity from the different sources including ISGS and ISTS and pass over to the consumers and therefore DISCOMs not agitating much before the Central Commission in determination of Tariff resulting inflated retail tariff to the consumers. It is also fact that over last 25 years existence of the Central Commission failed to make necessary arrangements to reach out every state, civil societies and common public through various means i.e. presentations, interactions, discussions, debates encouraging public to participate in the Tariff determination process. Rather in contrary there are instances that the Central Commission discourages the public for participation in tariff determination before the Commission. This results in unjust enrichment to the Central utilities in tariff. Following comments are submitted for kind consideration of the Hon'ble Commission-
1. It has been observed from last 25 years of existence of the CERC, total 5(five) Multi Year Tariff (MYT) Regulations were made since 2001. All those MYT Regulations were made under Section 61 of the EA 2003 (henceforth the Act) to determine tariff under section 62 of the Act. The cost plus Tariff determines under those Regulations broadly have five fixed components.
 - a) Return on Equity (RoE)
 - b) Depreciation
 - c) Interest on loan capital
 - d) O&M charges and
 - e) Interest on working capita (IWC)In case of Thermal generating units, a variable cost on fuel is included.

It is unfortunate to observed that over the years the Central Commission failed to carry out any works for encouraging competition nor efficiency gain and economical use of resources in the Electricity industry as mandates under Section 61 of the Act. This adversely effects on the interest of the consumers at the receiving end. It is fact that the consumers at the receiving ends are under the state Commission but electricity as a chain from generation to the distribution sector, the Central Commission has greater responsibility towards safeguarding the interest of the consumers which the Central Commission failed to carry out over the years. The Central Commission only fulfill the requirements of the ISGS and ISTS in the country.

2. Return on equity: The present RoE is very high and this should not be more than 10% at any cost. Considering the downward revision of Marginal Cost of Funds Based Landing Rate (MCLR) of the Public Sector Banks and 10-year G-Sec Rates, it is felt prudent to revisit and redetermine the Rate of Return on Equity for the control period FY 2024-25 to 2028-29 by the Central Commission. It is pertinent to submit that the overall interest rate has shown a declining trend during the past period mainly the RBI Repo Rate, Interbank Rate and SBI Base Rate/MCLR Rate have come down during this period. With better control over inflation, the interest rates have remained low and stable over short & medium term. It could be observed from the following table, that SBI MCLR rates have gradually fallen down from April 2019 onwards:

SBI MCLR RATE March'19 to Mar'22

Date	Rate %	Date	Rate%	Date	Rate %
15.03.2022	7.00	10.03.2021	7.00	10.03.2020	7.75
15.02.2022	7.00	10.02.2021	7.00	10.02.2020	7.85
15.01.2022	7.00	10.01.2021	7.00	10.01.2020	7.90
15.12.2021	7.00	10.12.2020	7.00	10.12.2019	7.90
15.11.2021	7.00	10.11.2020	7.00	10.11.2019	8.00
15.10.2021	7.00	10.10.2020	7.00	10.10.2019	8.05
15.09.2021	7.00	10.09.2020	7.00	10.09.2019	8.15
15.08.2021	7.00	10.08.2020	7.00	10.08.2019	8.25
15.07.2021	7.00	10.07.2020	7.00	10.07.2019	8.40
15.06.2021	7.00	10.06.2020	7.00	10.06.2019	8.45
15.05.2021	7.00	10.05.2020	7.25	10.05.2019	8.45
10.04.2021	7.00	10.04.2020	7.40	10.04.2019	8.50
				10.03.2019	8.55

After detail analysis it is found that The yield on 10-year benchmark Government Bond has also come down to 5.96% (1-year average) during FY 2020-2021 as compared to 7.40% at the beginning of FY 2019-20, while it was 6.84% at the end of FY 2021-22.

Although there are various models available for estimation of cost of equity i.e. RoE. However the model normally use by various State and central ERC has been adopted here for arriving at RoE.

In accordance with Section 3 of the Electricity Act 2003, the Central Government has notified the Tariff Policy on 6th January, 2006. Further amendments to the Tariff Policy were notified on 31st March, 2008, 20th January, 2011 and 8th July, 2011. In exercise of powers conferred under Section 3(3) of Electricity Act, 2003, the Central Government notified the revised Tariff Policy on 28/01/2016. Tariff Policy mandates to have appropriate return on investment. The Tariff Policy has mandated the Distribution Licensees to procure their future requirement of power through Tariff Based Competitive Bidding. The market forces are likely to exert downward pressure on the IRR (Internal Rate of Return) of the new projects. Further, the rate of interest has also come down in recent times. Therefore, there is market dynamics which favours reduction of rate of return.

Under the above scenario ROE is to be reviewed considering the present market expectations. Electricity is an essential commodity and therefore risk perception is minimal.

MODEL FOR RATIONALISED STRUCTURE OF RETURN ON EQUITY

CAPITAL ASSET PRICING MODEL (CAPM)

(1) The CAPM describes the relationship between the expected return and risk of investing in a security. It shows that the expected return on a security is equal to the risk-free return plus a risk premium, which is based on the beta of that security.

(2) CAPM is also the most popular and widely accepted method for determining the cost of equity. It is recognised that this model will give the approx. rate of return on equity, as it is based on the assumption of data e.g. market return data, Risk Free rate taken as Government/Sovereign Bonds yield for 1 year or more will also impact the rate of return on equity.

(3) In financial market, CAPM is a well-established model for calculation of return on equity of an asset. Essentially it is based on Modern Portfolio Theory and theory of diversification of risk wherein a rational investor maximizes his portfolio's expected return for a given amount of portfolio risk, or equivalently minimize risk for a given level of expected return, by carefully choosing the proportions of various assets.

(4) The CAPM gives an approximate rate of return on equity, which can be used to take an informed decision on rate of return on equity. In order to compute the Market Risk Premium (R_m), the return expected by the market has been estimated by assuming the past returns provided by the equity market, as it mirrors the expectations of the investors (by considering the market return for 10 years from April 2012-Mar 2022). In order to compute the Risk free return, the average of daily last traded price (PX_LAST) of 10 Year G-Sec (Government Security) for the past 3 years (FY 2019-20 to FY 2021-22) is considered.

(5) CAPM is being applied to “quantify what the market should expect ROE of generating companies/ Transmission Licensees/Distribution Licensees which are either traded in the stock market or their Group Companies are Traded or not Traded and whose Tariff is being determined by the various Commissions.” CAPM is just one of the models that tries to determine what the market should expect.

(6) It needs to be noted that on one hand while these companies are regulated entities these are also listed and traded in the stock markets. This would act as a useful insight on the expectation of the financial / portfolio investors in these companies, how they perceive risk in these companies and their expected return. With this data analysis and information, it would be better placed to arrive at the ROE to be allowed to these regulated companies.

(7) It is also noteworthy to mention that there are several other unregulated IPP also listed and traded in the stock market. The expected return on these companies has also been calculated and compare with the returns of the regulated companies.

(8) It is also worth emphasizing that there are a large number of power generating companies which are listed and the stock are liquid. This is helpful in terms of market data available for analytic purposes.

POWER UTILITIES CONSIDERED FOR CAPM

(9) As mentioned in the preceding paragraph, Power companies listed in the stock markets have been classified into two categories which are considered for CAPM: -

a) Regulated Power companies traded in stock markets which include

1. NTPC
2. NHPC
3. PGCIL
4. NLC
5. SJVNL
6. GIPCL

b) De-regulated Power Companies or IPP's traded in stock markets include

1. Tata Power
2. Reliance Power
3. Torrent Power
4. CESC
5. JSW Energy
6. Rattan India Power
7. Jaiprakash Power Ventures Limited

(10) In the case of private power companies, it is noted that while some of the companies are pure play generating companies, some are also in to power distribution business and some have exposure to other infrastructure business. Hence the expected returns to that extent their returns do not reflect the pure power generation business expected returns but also risk associated with infrastructure and power distribution businesses.

(11) Since most of the regulated companies are listed in stock market and although certain deregulated companies are not listed but their parent companies are listed in the stock exchange, therefore, same are appropriately factored in their CAPM.

STEPS FOR CAPM

(12) As mentioned earlier, the CAPM describes the relationship between the expected return and risk of investing in a security. It shows that the expected return on a security is equal to the risk-free return plus a risk premium, which is based on the beta of that security. CAPM can be summarized according to the following formula:

Required (or expected) Return = Risk Free Rate + (Market Return – Risk Free Rate) x Beta.

Expected Return on a Stock = Risk Free rate of return + Beta * (Risk Premium of Stocks over risk free rate of return).

This defines as follows-

$$E(R_i) = R_f + \beta_i \{E(R_m) - R_f\}$$

Where,

(R_i) is expected return on capital asset

R_f is the risk-free rate of interest such as interest arising from government bonds

β_i (the beta) is the sensitivity of the expected excess asset returns to the expected excess

$$\beta_i = \frac{\text{COV}(R_i - R_m)}{\text{Var}(R_m)}$$

E(R_m) = is the expected return of the market

E(R_m) - R_f = is sometimes known as the market premium (the difference between the expected market rate of return and the risk-free rate of return).

E(R_i) - R_f is also known as the risk premium

For estimating the rate of return on equity using CAPM, following steps were followed:

Step1: CALCULATE RISK FREE RATE (RF) for using 10-year govt. bond yields. Though Government securities do not have a default risk, they are still susceptible to reinvestment risk and inflation risk. To eliminate reinvestment risk, zero coupon securities have been considered. However, inflation risk is still not effectively mitigated. Due to the lack of any better measure of risk-free rate, the yield on Government securities is considered as Risk Free rate. The risk-free rate for India has been estimated based on yield on average yield of 10-year government bond over past 3 years (FY 2019-20 to 2021-22)

STEP-2 -CALCULATE HISTORICAL MARKET RETURNS (RM) for the past 10 years (April 2012 – March 2022) using BSE Sensex data to determine the Expected rate of return (R_m). The market return has been estimated based on historical data of returns of BSE Sensex over past 10 years from FY 2012-13 to FY 2021-2022. The data has been taken for 10 years including the Financial Year 2021-22 in which year there was a spurt in the Sensex considering the fact there was a dip in the Sensex during Financial Year 2020-

21 due to COVID related strains. The market return for a period from FY 2012-13 to FY 2021-22 work out to around 11.59%.

- a) In order to compute the Market Risk Premium (Rm), the return expected by the market has been estimated by assuming the past returns provided by the equity market, as it mirrors the expectations of the investors. For determining the market return, the returns provided by the BSE Sensex in different period ranges has been considered as a proxy for the historical returns provided by the Indian equity market.
- b) The average annual growth rate of the BSE Sensex over the period of FY 2012-13– FY 2021-22 works out to around 11.59%. the same has been considered as market return for calculating ROE.

STEP 3 - BETA (β) is a measure of the volatility, or systematic risk, of a security or a portfolio in comparison to the market as a whole. For computing the Beta for CAPM formula, firstly the Beta is estimated for all major power sector companies in the business of power generation and transmission listed in the BSE. In the next step, the composite Beta based on the weighted average of market capitalization separately for Regulated entities and IPPs has been computed to estimate the business risk of the concerned companies. The Beta for various Power Sector Companies (based on daily returns) has been estimated for the FY 2012-13 to FY 2021-22 as well the Composite Beta which is calculated on the basis of Market capitalisation of various Power Sector Companies on 31/03/2022

c) The different betas calculated are:-

- i. Composite Beta of the Regulated Companies
- ii. Composite Beta of IPPs (For Comparison with Regulated Companies)
- iii. Composite Beta of Regulated companies and IPPs

d) Methodology of Beta Calculation:

- i. Beta calculation: The daily stock return has been regressed against the daily Sensex returns to calculate the beta of the stock. Linear regression has been used with Sensex return as an independent variable and stock returns as the dependent variable.
- ii. Calculation of return: As is the practice in financial markets, the return taken are the Logarithmic returns i.e. $R = \ln(P_t / P_{t-1})$
- iii. Time period: Data from April 2012 – March 2022 have been used.

e) Individual Beta of each stock has been calculated. Thereafter the Composite Beta of regulated Companies and Composite Beta of IPPs has been calculated. The market capitalization of the stock has been used as weight for the composite beta calculation.

STEP 4 – EXPECTED RETRUN is a return expected by an investor in a stock.

f) The expected return is calculated using the CAPM and is dependent on Beta, market risk premium and risk-free rate. The below table shows the Beta and the Expected return on the stock.

g) The expected return of all Regulated Companies combined together is also found using CAPM and taking the composite beta.

h) Difference between Expected Return on a stock and Return of Equity (ROE) allowed by Regulators: The ROE to be allowed by regulators is a public information and is known to the market. This information gets factored in the stock price and the expected return gets adjusted accordingly. The expected return adjusted itself to many other factor like macro economy factors, industry factors, company specific business risk, management quality etc

After putting all the information and it has been found that for regulated entity Return on equity for daily Beta bases is 9.69% and for Independent Power producer RoE daily Beta based is 11.59% and daily Beta based for both Regulated companies and IPPs will be 10.34%. Daily rate of RoE 10,34% and rounding off to the nearest whole number RoE as 10%.

PROPOSAL ON RETRUN ON EQUITY

In view of the above analysis, the rate of Return on Equity can be rationalised as follows: **GENERATING ENTITY = 10% on post tax basis.**

TRANSMISSION LICENSEE = 10% on post tax basis

N.B=Necessary calculations are not provided. However, in detail discussion those can be shared with the Central Commission. However, using the above methodology, the Central Commission is quite competent enough to understand and to arrive on those figures.

4. **Role of Old Generating Stations:** MYT Regulation 2004 provided huge fund to the generating companies for R&M. Unfortunately, whether the fund was utilized properly or not is not known. The Hon'ble is not transparent in R&M expenditure and the life extended by it is not known. This discussion paper does not contain those aspect. The Central Commission must come all those information in much transparent manner before proposing something in their draft MYT 2024. So for transparency the Hon'ble Commission may constitute one expert committee headed by CEA personnel and evaluate entire exercise carried out by the utilities on life extension projects under R&M.
5. **Regulatory Certainty & Tariff determination:** Tariff determination of Regulated entities are according to the process prescribed under section 62(5) & 62(6) of the Act which says-

“Section 62. (Determination of tariff): --- (1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for – (5) The Commission may require a licensee or a generating company to comply with such procedures as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.”

As such tariff to be determined under the Act is a future tariff only and the tariff provided must be trued up in the subsequent year/ years and the additional amount paid by the consumers on actual tariff must be returned back with interest to the consumers. It is unfortunate to mention that no such exercise has ever been carried out by the Commission after future tariff is provided. For example, the norms provided by the Central commissions are ceiling norms only. After prudent check carried out by the Commission if it is found that actual performances are much less, the excess amount must be refunded back to the consumers and if the performances of entities are above norms the additional amount incurred by the entities shall be on their account as per the Act. The trueing up exercises has never been carried out as per mandate. If no trueing up exercise is carried out is not only against the interest of consumers but also spirit of sections 61 and 62 of the Act. For providing suggestions on both the approach it is found that frequent changing of methodology in approach in determination of tariff for Regulated entities will result on uncertainty in tariff which is against the spirit of legislative principles. MYT principles clearly mandate that both controllable and uncontrollable parameters are such that the tariff should be provided in future period and both the controllable parameters must be trued up after a regular period once the is over and the excess payment incurred by the entity of to be adjusted in the ARR of future tariff. The principle must be followed holistically by the Central Commission.

Eg. Many of the regulated entities were provided additional amount for Renovation & Modernization works under Regulation 10 of CERC MYT Regulations 2009. But it is not known how the amount spent in R&M works how much life expectancy of the generating projects were achieved. The approach paper does not say anything about it. Therefore stringent provisions are be made in the MYT Regulations for scrutiny preferably by the third party like CEA.

6. **O&M expenses and IWC:** The both components are provided on normative basis and must be trued up as per audited financial statements of the regulated entity. O&M comprises of three components namely, salary, R&M expenses and A&G expenses. The tariff is provided for future and must be trued up according to the audited financial statements of the utilities after the period is over. Same must be carried out for IWC also. In case of IWC the central Commission while calculating the working capital

considers receivables which includes depreciation and return on equity also. But these two components do not need any working capital. In fact depreciation is the cost of capital cost pouring in the depreciation account of the entity. RoE is the profit earned by the entities. Therefore, both these two components should not be considered in receivables while calculating IWC.

- 7. Reference Cost for Approval of Capital Cost – Benchmark Cost V/s Investment Approval Cost :** According to the provisions of the act such benchmarking is not necessary. After the Tariff policy 2006 was enacted, all tariff including the projects under the PSU were also to be determined after five years of notification of the policy. As such all projects should be constructed on competitive bidding only. This approach is contrary to the Act. Section 7. (Generating company and requirement for setting up of generating station) says that Any generating company may establish, operate and maintain a generating station without obtaining a licence under this Act if it complies with the technical standards relating to connectivity with the grid referred to in clause (b) of section 73. Therefore, any entity can set up a generating company does not require any license and the central commission shall have no control on it. Prior to construction of the projects the generating companies are to enter PPA with the distribution companies or trading licensees as the case may be and therefore the Central commission has no role to play.

It is a fact that there are various challenges in construction of HEP which are mostly located in the Himalayan region where often geological surprises occur. As on January, 2019 total nos. of HEP under construction was 37 nos. out of which few were commissioned. Out of 37 under construction projects 10 are with central agencies, 12 are with state agencies and 15 are with private developers. Kameng HEP has already commissioned, Subansiri HEP is nearing commissioned. Tapovan Vishnughad (4x130 = 520 MW) and Lata Tapovan (3x57 = 171 MW) both under central agencies incurred heavy damages due to flood. As such there are remaining only 6 (six) to 8 (eight) nos. with central agencies for determination of Tariff during MYT Regulation period 2024-29 if commissioned. There is no such record available that whether any action has been initiated by the Central commission for monitoring those projects for timely commissioning or not. The Central Commission must acquire the details of the HEP undergoing construction under Central agencies and to monitor its construction activities regularly along with CEA in the interest of public as well as national interest at large.

- 8. Capital Cost for Projects acquired post NCLT Proceedings:** Details to be submitted by the Central commission. The Central Commission is to determine tariff for the central agencies not the private entities and most of the Central agencies are providing profit

and therefore question of non-payment to the financial institution does not arise. For private entities the tariff is determined through bidding route.

- 9. Computation of IDC and IEDC:** It is fact that initially DPR is prepared by the regulated entities and sign the PPA with the discoms and trading licensees with the conditions that the tariff will be as determines by the Central Commission and accordingly the developers tie-up with the financial institutions for loan capital and in absence of the proper monitoring of the construction activities from the Central Commission, the cost is escalated for various reasons such as delay attributable to Force Majeure, law and order, excessive rainfall, change of law, litigations etc. etc. Sometimes the capital cost escalates many folds. There is no much effort provided by the developers to complete the projects in time knowing fully well that the central commission will be binding under the regulations for awarding tariff as claimed. It is very unfortunate that there is no such enable provisions that while approving the original DPRs, the same is to be approved by the central Commission. There must be such enabling provisions so that original DPR must be approved by the Central Commission and if any delay occurs the developer must come before the Commission and revised DPR to be approved. The Central commission also to monitor the progress of the projects in a regular interval during construction. In absence of such mechanism in the MYT Regulations the consumers are the worst sufferer. The Central Commission must incorporate those issues in the regulations.
- 10.** It is a matter of worry that it has been observed that over the recent years the functioning of the Central Commission has been deteriorated considerably. It was expected that after appointment of the legal member the functioning would be improved as expected by the Apex court also. But it has not been improved but on the other way round. This is because the Central commission while framing the Regulations, the draft Regulations must be published under the provision U/S 178 subsection 3 of the Act. The draft MYT Regulations 2019 was also not published. Matter was raised before the Commission during public hearing but the Commission said that when it was uploaded in the Commission's web-site so they did not publish. It was vehemently opposed. But the matter was not mention in the statement of reason paper of the Commission. Subsequently many draft regulations have not been published. The 2nd amendment of draft MYT Regulations 2020 was also not published. In this case it is very sad also matter of concern that even the submission of the participants as objections/suggestions were not properly recorded in the statement of reasons. E.g. Undersigned in the comment as well as in the public hearing mentioned that the central Commission is not empowered to make regulations other than 'Electrical energy' as prescribed under Section 2(23) of the Act as proposed in the chapter 9 for determination of cost of coal (regulation 36-45). The entire chapter was dropped in the final MYT regulations 2019. But while entire nation was running on COVID and nation was completely under lock down the Central Commission brought

the Regulations surreptitiously during June, 2020 as 2nd amendment to the principal Regulations. The draft was never published in the newspaper also violating the provisions of the statute. The Central commission is not above suspicion for notifying the 2nd amendment on a tearing hurry to adopt the dropped draft regulations as amendments during lock down period during which the employees of the Central Commission were not attending the office. It is suspected the incumbent Central Commission might be in collusion. In the RTI reply the central commission stated that no attendance of employees were recorded of the during lock down. In the RTI when asked the Central Commission to provide the information why there was a tearing hurry to initiate action for amendment during lock down period but in reply Central Commission said that necessary information could not be provided. This is against the mandate U/S 79(3) which says ***“The Central commission shall ensure transparency while exercising its power and discharging its duties”***.

11. More interestingly the Central Commission in its statutory advice to the Central government advised vide RA-10/6/2020 dated 15.10.2021 that ***“While the draft Rules at paragraph 1(a) and (c) have been put on the website of the Ministry of Power, the draft Rule at paragraph 1(b) has not been put on the website. It is requested that for greater transparency and probity, draft Rules may not only be put on the website for wide publicity and soliciting responses of wider stakeholders, but the responses received may also be disclosed on the website for stakeholders at large to appreciate the impact of such Rules.”*** But similar action is not seen in the action of the Central commission. E.g. The Central commission recently uploaded one Draft Central electricity Regulatory Commission (Appointment of Consultants) (Fourth Amendment) Regulations, 2023 inviting comments from the public/stakeholders. In reply comment undersigned objected to make such Regulations which is against the public interest. The regulations proposed that applicant should be retired person and I objected on the ground that the amendment proposed was only to appoint the retired personnel from the Central Commission to extend the post-retirement benefits which may scarify the pre-retirement works in the central commission of those incumbents. I clearly mentioned also that ***“It is learnt from a reliable source that some retired senior officers {Chief (law), Chief(finance), Joint Chief (Engineering) etc.} from the Central Commission were re-appointed in different posts as consultants immediately after their superannuation without completion of their mandatory cooling period of 2(two) years after retirement as per central government rules. As those persons are on contractual basis and not covered under any central government rule but deal many sensitive files without having any accountability, ostensibly to provide biases and anti-consumer decisions also severely compromises the role of impartiality of the central commission. There is no dearth of talent in the regulatory parlance and creating some sorts of institutional memory, such type of post-retirement appointments should be avoided to the extent possible. It is the duty of the Central regulator to develop young regulators who will take the Country’s electricity sector***

forward, otherwise the main objective of the reform in the electricity industry would be completely defeated due to shortage of man power. More interestingly in the organizational chart it is not found where those persons appointed on contractual basis under the CERC (Appointment of Consultants) Regulations, 2008 are fitted into. The proposed draft amendments in the Regulations would make the situation further worse and under the coverage of subordinate statute as proposed in the proposed draft amendment Regulation, the illegal practice of appointment in collusion would strengthen further. This dangerous practice of appointment in the Central Commission is going on over the years in the Central Commission must be stopped not only on public interest but also national interest.” Further undersigned referred the report of the standing committee of the parliament (30th Report) *“The Committee find that given the functions of the Regulatory Commissions to transform the electricity sector, the constitution of a Board was enshrined in the Act itself to make these Commissions the proper bodies with adequate powers to develop and regulate the sector. However, over the years it has been found that the spirit of the Act has not been carried in the right perspective. Most of the Regulatory Commissions have become the refuge for the superannuated but influential officials. Their primary objective is to remain in employment rather than making any meaningful contribution with regard to the activities of the Commissions in the pursuit of their objectives. Hence these bodies have lost sheen and the authority, which they were designed to represent. In the process they have also lost the autonomy, which the Act has provided them for functional purposes. Had these Commissions acted as mandated under the Act, there would have been hardly any justification for languishing electricity sector in the Country. The Committee is inclined to infer that Regulatory Commissions have squarely failed in performing their assigned duties. The Committee, therefore, recommend that with a view to revolutionize the Sector it has become imperative to recast these Commissions at Board level. These establishments should not become the sanctuaries for senior citizens to secure sinecure positions without any accountability and stakes. Hence, these positions should be manned by the senior technical brains of the respective areas who are alive in services, having sense of accountability.”* The undersigned further said that *“In further indicates that by way of this draft amendments the Central Commission made opportunities for the retired persons for re-employment contrary to the serious observations by the highest authority of the Parliament committee for making the Central Commission over crowded with senior citizens is not only unacceptable but also desist from such action.”* Despite of all objections the Central Commission notified the amendments Regulations not considering the objections. The comments of the stake holders are also not uploaded in the CERC web-site. It is proper that for transparency all the comments of the draft Regulations are to be uploaded in the web-site but the Central Commission fails to bring transparency by uploading those comments in their own house.

- 12.** It is also often observed that the Central commission admits the Petitions of entities for redetermination of capital cost whose tariff has already been determined under bidding process. E.g. A private transmission utility in the name of M/S OGP II Trans. Ltd. whose tariff was determined on tariff bidding under section 63 of the Act came before the Central commission for re-determination of capital cost under Section 62 and the Central commission also determined the revised cost under Section 62 of the Act which is not permissible. There are numerous examples of such kind. It is also not known whether the Central commission follows the procedure or not as prescribed under 64. As per provisions under section 63 the Commission is to approve the tariff only.
- 13.** The Central Commission while formulating any regulation under section 178 of the Act or taking any decision on policy matter must consult with the Central Advisory committee (CAC). But from the minutes it is found that no discussion took place regarding 2nd amendments of MYT 2019 regulations nor Appointment of Consultants (Fourth Amendment) Regulations, 2023. It is unfortunate that even the CAC is not taken into confidence by the Central Commission while framing Regulations.
- 14.** Regulations has same effect and power as the legislature or the Act. The legislature providing power to the Commissions to legislate. Once the Regulations are made even the Commission has no power to deviate although they frame the Regulations. Therefore, utmost care must be undertaken by the Central Commission while framing the regulations.

Thanking you

Yours faithfully

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