

Oral hearing on Proposed Draft MYT
Regulations on Terms & Conditions of Tariff
for the Tariff Period 2024-29

PRESENTATION BY A CONSUMER FROM
ASSAM

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Presented by H.M.Sharma

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- The Central Electricity Regulatory Commission (CERC) did not publish the draft Regulations in the news papers is against their own rules.
- The Central Commission uploaded the draft regulations, Discussion paper on approach paper, Explanatory Memorandum, operational data time to time on piece meal basis without mentioning the dates of uploading.
- Public notice along with the draft MYT Regulations were uploaded in the CERC website on 04.01.2024. Letter sent to CERC asking uploading the EM at the earliest. On 29.01.2024 the EM was uploaded. On 12.02.24 operational data of generating stations and transmission licensees were uploaded without mentioning the date of uploading.
- Apparently on looking into the website it appears that all the information uploaded on the same date. The Central Commission failed to maintain its transparency as mandated by the Electricity Act 2003 (henceforth as Act).

- The Commission prescribed 'Regulatory Procedures and Processes' and under the procedure before preparation of draft regulations a staff paper/ discussion paper and provided wide publicity through electronic and print media.
- The Commission did not even publish the approach paper and only uploaded in its website, the reason best known to the Commission.
- On the other hand in the Annual report 2022-23 of CERC it is found that expenditure of Rs.11.11 lakh on publications and Rs. 88.25 lakh was spent on publication and advertisement.
- The Central commission also did not publish the draft MYT regulations in the news paper also against its own rules.
- It also fact that time provided for submission of comments on the draft Regulations is not sufficient as the draft Regulations contains more than 170 pages and EM contains about 238 pages and to going through the voluminous operational data uploaded very lately.
- I am a consumer and unlike other utilities and the Commission I have no dedicated man power to study and prepare comments. This is also I have been doing since long on public interest.

- Another interesting part is that I had submitted the comments on approach paper of CERC but in the discussion paper nothing is mentioned about my submission. Certain important comments were submitted by me.
- Under the above there is reason to believe that the in the recent years the Central Commission is loosing its shine.
- I had submitted comments on the draft MYT Regulations 2019 and opposed that the Central Commission has no legal mandate to determine prices of coal as Electricity defines U/S 2(23) of the Act.
- The Central Commission accordingly dropped the provisions in the final Regulations. However during lock down period of COVID-19 the provisions were incorporated with amendments was against public interest.
- Determination of coal prices carried out by the Commission has no mandate for undergoing legal scrutiny.
- In the present draft MYT Regulations also it is included by the Commission without due diligent and therefore must be dropped.

- Central commission is a creature of the Parliament of India and the parliament vested certain legislative power to the Commission means the Commission has dual power of both legislative and administrative.
- While carryout its function the Central commission is to discharge its duties in a transparent manner U/S 79(3).
- Unfortunately it is not seen is happening. 30th parliamentary standing committee of parliament of energy in its report recommended that the Central Commission should not appoint senior citizens as consultant making the Central Commission overcrowded with the retired persons.
- In the forth amendment of CERC (appointment of consultant) Regulations 2023, the Central commission made the provisions for relaxing age limits of consultants above 60 years against the recommendations of the parliamentary committee.
- It is more interesting that those employees who has retired from the Central Commission again re-employed as consultants. As on today there are as much as 4 (four) individual consultants and 29 (twenty nine) nos. of staff consultants total 33 (thirty-three) consultants in CERC.

- This consumer submitted its comments of the 4th amendments of consultant Regulations and opposed it from the point of view of the recommendations of standing committee of parliament. But nothing was considered and reason of non consideration was also not provided.
- Another important issue is that as per 2007 service regulations of the Commission total 83 nos. of posts were sanctioned. But with the 4th amendments during 2019, total staff increased to 111 nos.
- The tariff policy 2006 mandated that after 6th of January, 2011, the tariff should be determined through bidding routes including PSUs. Accordingly the main function of determination of tariff has been reduced significantly. Also by adopting the IT technology the work load also reduced. Therefore it is not understood why the sanction posts were increased significantly.
- Regarding draft MYT regulations time is not sufficient to study along with the EM and operational data which are voluminous. However certain comments are provided for consideration.

- **Regulation2:** There is no legal mandate to revise tariff once determined by truing up of previous years.
- It is suggested that the existing MYT Regulations is to be extended for another one year upto 31.03.2025. During this one year truing up exercise to be carried out expeditiously and new MYT regulations should brought w.ef 01.04.2025.
- **Regulation 13.** For ruing up of preceding MYT Period last date of submission should be earlier commensurate with the proposed draft MYT Regulations. If necessary last four years truing up to be made and the excess amount to be recovered from the generating companies and transmission licensees can be carried forward to the future ARR.
- **Capital cost:** It is pertinent that the generating companies and transmission licensees inflated their capital cost of the project exorbitantly without proper reason. The Gol also encourage in inflating capital cost providing unjust enrichment to the companies and licensees.
- As per guideline of Gol in other centrally sponsored project, third party monitoring system is in place. Here in case of determination of time overrun and cost overrun and quality of works, a third party assessment to be introduced on public interest.

- **Regulation 27:** In the explanatory memorandum nothing as provided about details of the renovation and modernization works undertaken by the generating companies and transmission licensees and improvement there of. Nature of works carried is necessary.
- **Regulations 28:** The explanatory memorandum does not indicate which are the generating stations who opted for special allowances. It is necessary because of the fact that whether generating companies has been availed the special allowance in earlier MYT period or not. What efficiency gained spending such allowances is to be provided.
- **Reg.30:** RoE should not be more than 10%. In the Comment on Approach paper it was elaborately discussed and considering all facts and analysis provided reasonable RoE should not be more than 10%.
- No methodology provided by the Central commission to arrive at the higher RoE of 15% for transmission license. 15.5 % for thermal generating stations and 17% for hydro generating stations.
- **Reg.34:** IWC should be provided not more than 30 days only on receivables. Receivables include all fuel cost, O&M cost, spare etc. therefore separate costs for each item should not be considered. Truing up of earlier period is necessary.

- **Reg. 57&58:** Performance audit of all the generating stations under central utilities must be carried out by the Central Commission from earlier MYT period and then the normative parameters are to be fixed.
- In the final Regulations it must be mentioned that all norms are ceiling norms only. In the performance audit if it would be found lesser value, the actual value must be considered.
- **Reg.59 :** There should be better norms with gain in efficiency. Due to environment norms most of the coal are transported in closed wagon. Therefore, both 0.7% and 0.2% loss is very high. Kindly refer to the CAG performance audit No. 36 of 2022 on TPS of NTPC.
- **Reg. 60:** 2nd proviso is arbitrary in nature. The loss of calorific value in transit is very high. The value must be worked out first by measuring GCV both in sending and receiving end by third party tested results for each station and norms are to be fixed accordingly.
- **Reg. 60:** The peak and off peak capacity charges are to be calculated on pro rata basis of percentage availability of the of the plant. If availability is zero AFC should also be zero. Capacity charge incentives for both peak and off peak are very high. Even in certain case it is more than the per unit capacity charges of the unit. E.g. Singruli STPS per unit fixed charge 0.660, Ramagundam STPS I&II is 0.728. Incentives can not be more than normative fixed charges.

- It has been observed that operating norms of heat rates as per CEA recommendations, the Operating heat rates from 2003-07 Vs 2008-13 OHR were better. The recommendation made by CEA for proposed MYT period, no such exercise made. The Central Commission should have made proper study and in the out come OHR made certain efficiency norms U/S 61 of the act.
- Regarding PLF CEA found in the corresponding period that most of the NTPC stations were operating above 90% PLF and certain stations were operating above 90% PLF. CERC should have provided ON of availability at least above 90% for realization of fixed cost. Similar study should have conducted by CEA while recommendations such norms.
- Recommendation of CEA for Operating Norms for MYT 2014 regulations, it is stated that despite adequate availability of gas fuel in Assam the Assam Gas base Power project was operating in lower PLF. Present recommendation by CEA did not mention anything but reduced the operating PLF. It is injustice to the consumers.

Thank You