

Bhopal, Dated: 26th October 2006

No. 2617/MPERC/2006. In exercise of powers conferred by Sections 45 and 61 read with Section 181(2) (zd) of the Electricity Act 2003 (No. 36 of 2003), the Madhya Pradesh Electricity Regulatory Commission hereby makes the following Regulations to specify the methods and principles for fixing the charges for electricity supplied by a Distribution Licensee and to specify the terms and conditions for determination of tariff for wheeling and retail supply of electricity in Madhya Pradesh during the Tariff Period of three years commencing from 1st April 2007 and continuing upto 31st March 2010:

Index

S.No.	Particulars	Clause No.
	CHAPTER – I – PRELIMINARY	
01.	Short title and commencement	1.1
02.	Scope and extent of application	1.4
03.	Definitions	1.5
04.	Determination of Tariff	1.7
05.	Principles for tariff determination	1.9
06.	Methodology for Determination of Wheeling cost, Energy Cost and Retailing cost as components of tariff	1.14
07.	Preparation & submission of Annual Accounts, Reports etc	1.27
08.	Fuel Surcharge	1.29
09.	Annual review	1.30
	CHAPTER – II – MYT PRINCIPLES FOR DETERMINATION OF ARR	
10.	Basis for determination of tariff	2.1
11.	Business and Capital Investment Plan	2.3
12.	Debt-equity ratio	2.5
13.	Return on Equity	2.8
14.	Interest and finance charges on loan capital	2.10
15.	Depreciation	2.14
16.	Lease/ Hire Purchase charges	2.17
17.	Operation & Maintenance expenses	2.18
18.	Bad and doubtful debts	2.25
19.	Interest charges on working capital	2.26
20.	Working Capital	2.27
21.	Foreign Exchange Rate Variation (FERV)	2.29
22.	Tax on income	2.30
23.	Pension and Gratuity Liability	2.34
24.	Tariff income	2.36
25.	Other income	2.37
26.	Surcharge and additional surcharge from Open Access Customers	2.38
27.	Profit / loss Sharing	2.40
28.	Estimation of sales	2.43
29.	Distribution Losses	2.47
30.	Estimate of power purchase requirement & availability	2.52
31.	Charges payable to Transmission Licensee	2.61
	CHAPTER – III – METHODOLOGY FOR DETERMINATION OF TARIFF	
32.	Determination of tariffs for retail sale consumers	3.1
33.	Inter-category transfers or cross-subsidy	3.2

S.No.	Particulars	Clause No.
34.	Incentives / Penalties on Power Factor, Load Factor, Demand Side Management	3.4
35.	Tariff categories and intimation of tariff rates to consumers	3.6
	CHAPTER – IV – MISCELLANEOUS	
36.	Review at the end and during Tariff period	4.1
37.	Power to remove difficulties	4.5
38.	Power to Amend	4.6
39.	Repeal and Savings	4.7

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF TARIFF FOR DISTRIBUTION AND RETAIL SUPPLY OF ELECTRICITY AND METHODS AND PRINCIPLES FOR FIXATION OF CHARGES) REGULATIONS, 2006

(RG-27 (I) OF 2006)

PREAMBLE

Whereas the Commission had notified the terms and conditions for determining distribution tariff on 23rd Dec 2005 and whereas certain changes are necessary in these Regulations to bring them in line with the National Tariff Policy notified by the Union Ministry of Power on 6 January 2006 and also to implement the Multi-Year Tariff approach in distribution tariff to bring about stability in the matter of retail tariff, therefore these Regulations are being notified.

CHAPTER I - PRELIMINARY

Short title and commencement

- 1.1 These Regulations shall be called ‘The Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for distribution and retail supply of electricity and methods and principles for fixation of charges) Regulations, 2006, to be known in short as MPERC (Terms and Conditions of Tariff and Charges) Regulations, 2006.
- 1.2 These Regulations shall extend to the whole of the state of Madhya Pradesh.
- 1.3 These Regulations shall come into force from the date of their publication in the official gazette of the Government of Madhya Pradesh.

Scope and extent of application

- 1.4 Terms and conditions described in these Regulations and the methods and principles for fixation of charges shall apply in all cases of determination of tariff for wheeling and retail supply of electricity under section 62 of the EA 2003.

Definitions

- 1.5 In these Regulations, unless the context otherwise requires,
 - (a) “Act” shall mean the Electricity Act, 2003 (36 of 2003);
 - (b) "Accounting Statement" means for each financial year the following statements, namely-

- (i) balance sheet, prepared in accordance with the form contained in Part I of Schedule VI to the Companies Act, 1956;
 - (ii) profit and loss account, complying with the requirements contained in Part II of Schedule VI to the Companies Act, 1956
 - (iii) cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) of the Institute of Chartered Accountants of India;
 - (iv) report of the statutory auditors' of the licensee
 - (v) cost records if any, prescribed by the Central Government under Section 209(1)(d) of the Companies Act, 1956,
 - (vi) together with notes thereto, and such other supporting statements and information as the Commission may direct from time to time;
- (c) Aggregate Revenue Requirement (ARR) shall mean the estimate of the aggregate expenses to be incurred by the distribution licensee for its licensed businesses in the ensuing year or years and estimate of expected revenue;
- (d) "Applicant" means a distribution licensee who has made an application for determination of tariff for wheeling and retail sale of electricity in accordance with these Regulations and includes a distribution licensee whose tariff is the subject of a review by the Commission either suo motu or, on a petition filed by any interested or affected person;
- (e) "Authorised load" means load duly sanctioned by the distribution licensee to any consumer for the purpose of electric connection to that consumer's premises. This shall be expressed in kW, kVA or HP units and shall be determined as per procedure laid down in the Electricity Supply Code;
- (f) "Bank rate" shall mean the bank rate of Reserve Bank of India as on April 1, of the relevant year;
- (g) "Base Year" shall mean the first year of a multi year tariff period;
- (h) "Commission" shall mean the Madhya Pradesh Electricity Regulatory Commission;
- (i) "Customer" shall mean a person who has set up a captive generating plant or a Licensee or a consumer availing open access, utilising the distribution system of the Distribution Licensee.
- (j) "Date of Commercial operation" (COD)
shall mean the date of charging the electric line or substation of a distribution licensee to its Declared Voltage level or seven days after the date on which it is declared ready for charging by the Distribution Licensee, but not able to charge for reasons attributable to its customers;
Provided that the date of commercial operation shall not be a date prior to the scheduled date of commercial operation mentioned in the implementation agreement or the investment approval, as the case may be, unless mutually agreed to by all parties;
- (k) "Extra High Tension (EHT) consumer" means a consumer who is supplied electricity at a voltage higher than 33000 volts;
- (l) "High Tension (HT) consumer" means a consumer who is supplied electricity at a voltage higher than 440 volts but not exceeding 33000 volts;
- (m) "Low Tension (LT) consumer" means a consumer who is supplied electricity at a voltage up to 440 Volts;

- (n) “Licensee” shall include a person deemed to be a licensee under Section 14 of the Act;
- (o) “Officer” means an officer of the Commission;
- (p) “Retail Consumer” means a person who avails supply of electricity from a Distribution Licensee;
- (q) “Secretary” means Secretary to the Commission;
- (r) “Tariff period” shall mean the period for which tariff is determined by the Commission under these Regulations and ‘first multi-year tariff period’ will mean the period from 1st April 2007 to 31st March 2010;
- (s) “Year” shall mean financial year ending on 31st March, and
 - (i) “Current Year” shall mean the year in which the statement of annual accounts or petition for determination of tariff is filed,
 - (ii) “Previous Year” shall mean the year immediately preceding the current year,
 - (iii) “Ensuing Year” shall mean the year next following the current year;
- (t) “Contracted Power” shall mean the power in MW, which the distribution licensee has agreed to wheel on his distribution system;
- (u) “Declared Voltage” shall mean the voltage as specified under Section-54 of the Indian Electricity Rules, 1956 and as amended from time to time;
- (v) “Distribution loss” shall mean the total losses in the distribution system of a distribution licensee.

1.6 Words or expressions occurring in these Regulations and not defined shall bear the same meaning as in the Act.

Determination of Tariff

1.7 The Commission shall determine tariff including terms and conditions thereof for wheeling and retail sale of electricity to consumers.

1.8 Procedure for making applications for determination of tariffs for wheeling and retail sale of electricity has earlier been notified under the title MPERC (Details to be furnished and fees payable by licensee or generating company for determination of tariff and manner of making an application) Regulations, 2004. The forms for submission of information by the distribution licensees subsequent to the restructuring and as relevant for Multi-Year Tariff framework have been annexed (Annexure – I) at the end of these Regulations and the same shall be followed. The Licensee is also required to publish in an abridged form, the application for tariff determination for the Multi-Year period in the formats which are specified in Annexure – II.

Principles for tariff determination

1.9 The Commission, while specifying the terms and conditions for the determination of tariff under these Regulations has been guided by the principles contained in section 61(a) to (i) of the Act.

- 1.10 The Regulations encourage Distribution Licensee to operate on sound commercial principles and therefore the tariff shall provide for recovery of full cost incurred in the operation of the licensed activities of wheeling and retail supply of the Distribution Licensee plus Return on Equity (RoE). The Distribution Licensee shall be required to prepare their Accounting Statements as per the Company Law requirement, which shall be regularly submitted before the Commission as detailed in clause 1.27. Only prudent levels of expenses shall be allowed. Only prudent capital expenditure shall be considered for inclusion in the Asset base.
- 1.11 The Commission may consider inclusion of the cost incurred for implementing computerised MIS and prudent HRD policies as an expenditure in the aggregate revenue requirement while determining the tariff.
- 1.12 Only those investment schemes that are framed in accordance with the guidelines framed by the Commission in this regard and included in the approved Business Plan of the Licensee shall be allowed to be recovered through tariffs. This shall ensure prudent investments by the Distribution Licensee. The Distribution Licensee shall be required to ensure optimum investments and to make sufficient provision in the aggregate revenue requirement for investment to enhance distribution system capacity and meet performance standards prescribed by the Commission.
- 1.13 The cross-subsidy shall be progressively reduced in accordance with the National Tariff Policy.

Methodology for Determination of Wheeling cost, Energy cost and Retailing cost as components of tariff

- 1.14 The Commission shall define tariff periods for the Distribution Licensee from time to time. The principles for tariff determination shall be applicable for the duration of the tariff period. To start with, the principles that guide tariff determination shall be valid for three years commencing from 1st April 2007 and the terms and conditions contained in these Regulations shall form the basis of determination of tariff effective from 1st April 2007.
- 1.15 The Distribution Licensee's aggregate revenue requirement shall be presented to the Commission through a petition in three distinct parts i.e. one for the energy cost including transmission and distribution losses and inter-state and intra-state transmission charges, one for wheeling expenses and lastly for expenses pertaining to retail sale of energy to consumers, including customer services. The expenses pertaining to the creation, maintenance, upkeep, renewal and development including replacement and expansion of wires network shall be considered as wheeling activity. This shall cover sub-stations, conductors, transformers and apparatus used for wheeling of electricity by the Distribution Licensee.
- 1.16 The costs associated with the retail sale activity of the Distribution Licensee will include all costs associated with providing consumer services.
- 1.17 A Distribution Licensee having any other business which utilises the assets of the distribution business, shall maintain and submit to the Commission, separate accounts with respect to its licensed business and such other business.
- 1.18 The Commission shall, for the entire tariff period, approve the Aggregate Revenue Requirement for the Wheeling and Retail Supply activities of the Distribution Licensee based on the principles contained in these Regulations and authorise the Distribution Licensee to recover the charges from the consumers during the period of authorisation.

- 1.19 The ARR once approved for the tariff period shall only require annual adjustments in order to pass through uncontrollable variations in costs and revenues. All controllable variations shall normally be treated only at the end of the tariff period, however, if the magnitude of such variations is substantial then such variations could be reviewed during the tariff period also. However, the Distribution Licensee shall be required to file an application before the Commission every year in November for seeking renewal of authorisation to recover charges from the consumers after the period for which he is already authorised by the Commission.
- 1.20 The Commission will treat each Licensee area as a single territory for the purpose of recovering the expenses allocable to wheeling activity of distribution licensee. During the first tariff period, this principle shall be followed and separate wheeling charges for each voltage level shall be determined.
- 1.21 The Commission envisages making a distinction between interruptible and un-interruptible supply. Un-interruptible supply shall be at EHT voltage and the licensee may also provide un-interruptible supply at 33kV, if technically feasible and is obtained by the consumer. The Commission may authorise the licensee to recover a surcharge for un-interruptible supply.
- 1.22 The Commission shall determine per unit cost of energy to be recovered from the consumers served at any particular voltage duly giving consideration to the distribution losses allowed to the particular licensee for the Tariff Period.
- 1.23 The approved ARR shall include components of power purchase cost, wheeling expenses and retail sale expenses and shall be recoverable from all consumers availing supply from the distribution licensee
- 1.24 While determining the Aggregate Revenue Requirement of the Distribution Licensee, the Licensee, apart from details of energy cost, shall also provide accounting details / cost allocation details of activities pertaining to wheeling (distribution wires) and Retail Sale separately. The items allocable to wheeling activity may include:
- (i) Operations and Maintenance voltage wise expenses relating to wheeling activity;
 - (ii) Depreciation on voltage wise assets identified with wheeling activity;
 - (iii) Interest and finance charges on project loans voltage wise identified with wheeling activity as far as possible or notionally;
 - (iv) Interest and finance charges on Working Capital loans identified with wheeling activity;
 - (v) Return on Equity allocable to wheeling activity;
 - (vi) Lease / Hire purchase charges; and
 - (vii) Cost of hedging or swapping to take care of FERV;
- 1.25 The expenses allocable to retail sale activity may include:
- (i) Operations and Maintenance expenses relating to retail sale activity;
 - (ii) Depreciation on assets identified with retail sale activity;
 - (iii) Interest and finance charges on project loans identified with retail sale activity as far as possible or notionally;
 - (iv) Interest and finance charges on Working Capital loans identified with retail sale activity;
 - (v) Interest on Consumer Security Deposit;
 - (vi) Return on Equity allocable to retail sale activity;
 - (vii) Bad and doubtful debts; and
 - (viii) Lease / Hire purchase charges;

- 1.26 Subject to other provisions of these Regulations, the expenses allowed to be recovered by means of tariff for any financial year, shall be subject to adjustments in any tariff to be fixed for the subsequent period, if the Commission is satisfied, that such adjustments for the excess amount or shortfall in the amount actually realized or expenses incurred are necessary and the same are not on account of any reason attributable to or within the control of the Distribution Licensee.

Preparation & submission of Annual Accounts, Reports etc

- 1.27 Every Distribution Licensee shall prepare annual statement of accounts and also prepare annual reports and statistics, in forms specified by the Commission. Upon full independent operations of the companies subsequent to the notification of transfer scheme, the Distribution Licensee shall have to prepare its annual accounts as per the guidelines of the Companies Act, 1956. Together with the preparation of annual accounts, the Distribution Licensee shall be required to comply with the information requirements of various Regulations and license conditions notified by the Commission from time to time.
- 1.28 In the event of the Distribution Licensee not complying with the requirement of filing the ARR within the specified time, the Commission may, in addition to imposing such penalty as it deems fit, initiate Suo motu proceedings to determine tariff under section 62 of the Act.

Fuel Surcharge

- 1.29 As provided in Section 62(4) of the Act, a fuel surcharge formula may be specified by the Commission and tariff may be permitted to be charged under the terms of specified formula. The impact of fuel surcharge whenever permitted in respect of a generating company shall be recoverable from consumers and the Distribution Licensee may approach the Commission for such Order as are necessary under Section 62(4) of the Act.

Annual review

- 1.30 The licensee shall submit periodic returns as may be specified, containing operational and cost data to enable the Commission to monitor the implementation of its order.
- 1.31 The Distribution Licensee shall submit to the Commission annual statements of its performance and accounts including latest report of audited accounts and the tariff and non-tariff revenue and expenses.
- 1.32 The Commission shall scrutinize the annual accounts, norms achieved and revenue estimated by the Distribution Licensee. The revenue estimated by the Distribution Licensee shall be subject to the Commission's order under these Regulations.
- 1.33 Yearly adjustments will be allowed towards power purchase cost variations owing to justifiable power purchase mix variation (for example, more energy may be purchased from thermal generation in the event of poor rainfall).

CHAPTER II

MULTI YEAR PRINCIPLES FOR DETERMINATION OF ARR

Basis for determination of tariff

- 2.1 As already stated, multi year tariff principles shall be applicable from April 01, 2007 for a period of three years and the Distribution Licensee is required to file a proposal for determination of tariff latest by 31st October 2006 in respect of the first tariff period.

- 2.2 The wheeling and retail sale expenses determined by the Commission for the tariff period of three years will remain largely stable except for the energy cost, which may undergo a change from the determined value in the event of rise in fuel cost, which shall be passed through the tariff. Further, the Commission may also allow a change in wheeling and retail sale expenses on account of unforeseen additional and extraordinary investment needed for the distribution network.

Business and Capital Investment Plan

- 2.3 The Distribution Licensee shall file a business plan in July every year, which shall comprise but not be limited to detailed capital investment plan, financing plan and physical targets in accordance with guidelines issued by the Commission in this regard for the tariff period for meeting the requirement of load growth, reduction in distribution losses, increase in collection efficiency, improvement in quality of supply, reliability, metering, consumer services etc. Schemes for carrying out energy audit on regular basis, computerisation of accounting records, computerisation of billing and consumer records and MIS shall be proposed separately.
- 2.4 For the period FY 2006-07 to FY 2010-11, the Commission has already approved the Business Plans of the Licensees. The capital expenditure schemes submitted by the Licensees as part of their respective tariff petitions should be in accordance with their approved Business Plans. In case of major deviations, the same shall be adequately explained by the Licensees.

Debt-equity ratio

- 2.5 For the purpose of determination of tariff, the debt-equity ratio of the total capital employed in completed assets shall be 70:30. The debt-equity amount arrived in accordance with this clause shall be used for calculation of interest on loan, return on equity, advance against depreciation and foreign exchange rate variation.
- 2.6 Where equity employed is in excess of 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance amount shall be considered as loan. The interest rate applicable on the equity in excess of 30% treated as loan has been specified further in these Regulations. Where actual equity employed is less than 30%, the actual equity shall be considered.
- 2.7 Restructuring of capital cost in terms of relative share of equity and loan shall be permitted during the tariff period provided it does not affect tariff adversely. Any benefit from such restructuring shall be passed on to all consumers of Distribution Licensee in a ratio as may be specified by the Commission.

Return on Equity

- 2.8 Return on equity shall be computed on the paid up equity capital determined in accordance with these Regulations and shall be 14% (post tax).

Provided that return on equity invested in work in progress shall be allowed from the date of commercial operation.

- 2.9 The premium raised by the licensee while issuing share capital and investment of internal resources created out of free reserve, if any, 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 capital expenditure and forms part of the approved financial package. For the purposes of calculation of computation of return, the portion of free reserves utilized for meeting the capital expenditure shall be considered from the date the asset created is productively deployed in the distribution business.

Interest and finance charges on loan capital

- 2.10 Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of repayment, as per the terms and conditions of relevant agreements of loan, bond or debenture, ordinarily restricted to prevailing rates of SBI Long Term Lending Rate from time to time. Exception can be made for the existing or past loans which may have different terms as per the agreements already executed if the SERC is satisfied that the loan has been contracted for and applied to identifiable distribution projects. The interest rate on the amount of equity in excess of 30% treated as loan shall be the weighted average rate of the loan schemes of the licensee.

Provided that all loans considered for this purpose shall be identified with the assets created.

Provided that interest and finance charges of renegotiated loan agreements shall not be considered, if they result in higher charges.

Provided further that interest and finance charges on works in progress shall be excluded and shall be considered as part of the capital cost.

Provided further that neither penal interest nor overdue interest will be allowed for computation of aggregate revenue requirement.

- 2.11 Interest charges on security deposits, if any, with the licensee shall be considered at the rate specified by the Commission from time to time.
- 2.12 In case any moratorium period is availed of, 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.
- 2.13 The Distribution Licensee shall make every effort to swap the loan as long as it results in net benefit to the consumers. The Cost associated with such swapping shall be borne by the consumers and any benefit on account of swapping of loan and interest on loan shall be passed on to the consumers in such ratio as may be decided by the Commission.

Depreciation

- 2.14 For the purpose of tariff, depreciation shall be computed in the following manner:
- (a) The asset base for the purpose of depreciation shall be the historical cost of the assets, i.e. actual expenses limited to approved /accepted capital cost:

Provided that the consumer contribution or capital subsidy/ grant etc shall be treated as per the accounting rules notified and in force from time to time.
 - (b) The approved/accepted cost shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed.
 - (c) Depreciation rates for determination of allowable depreciation shall be as notified by the CERC from time to time.

To enable the Commission to validate the Licensee's depreciation claims, year wise and category wise (as defined by CERC) additions to assets must be provided by the licensee.

- 2.15 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.
- 2.16 Depreciation against assets relating to environmental protection shall be allowed on case to case basis at the time of fixation of tariff subject to the condition that the environmental standards as prescribed have been complied with.

Lease/ Hire Purchase charges

- 2.17 Lease charges for assets taken on lease by a licensee shall be considered as per lease agreement provided they are considered reasonable by the Commission.

Operation and Maintenance expenses

- 2.18 The O&M expenses comprise of employee cost, repairs & maintenance (R&M) cost and administrative & general (A&G) cost. The Commission will continue with the norms notified as part of the Regulations issued on 23rd December 2005. The Commission may initiate an exercise for developing more elaborate norms for O&M expenses in consultation with the licensees.
- 2.19 The net O&M expenses for each year of the tariff period shall be computed on the basis of projected number of metered consumers, metered sales, HT network length and transformation capacity of 33/11kV transformers for such year. The Distribution Licensee shall provide for each year of the tariff period, the relevant data for arriving at these values and the Commission shall accept them after verification.
- 2.20 O&M norms for the first tariff period given in the table are given below:

Table-1: Normative framework for O&M charges (Net of capitalization)

O&M charges (Rs. In lakhs)*	FY08	FY09	FY10
<i>For Metered Consumers (Rs lakh/1000 Consumer)</i>	6.50	6.90	7.31
<i>For Metered Sales (Rs Lakh/MU)</i>	2.35	2.49	2.64
<i>For HT Network length (Rs Lakh/100 ckt km)</i>	16.00	17.00	18.00
<i>For Transformation (33/11kV) (Rs Lakh/MVA)</i>	1.53	1.62	1.72

* These norms exclude terminal benefits to be paid to employees, taxes to be paid to the Government or local authorities and fees to be paid to MPERC, which the Distribution Licensee shall claim separately.

- 2.21 The total O&M expenses allowed as per the table above shall be split between Wheeling activity and Retail Sale activity on the basis of the segregation of these expenses as provided by the Licensee for FY 06 and FY 07.
- 2.22 Any significant underperformance in sale of electricity or setting up of network length or transformation capacity may result in over-recovery by the licensee and shall be corrected during the next tariff period.
- 2.23 Increase in O&M cost on account of war, insurgency, change in law or natural calamities and similar eventualities where the Commission is of the opinion that an increase in O&M cost is justified, may be allowed by the Commission for a specified period.
- 2.24 The Commission shall consider on merits, the variance between the actual O&M expenses of the Licensee and the O&M expenses allowed based on norms stated above.

Bad and doubtful debts

- 2.25 Bad and Doubtful Debts shall be allowed to the extent of the Distribution Licensee has actually written off bad debts subject to a maximum limit of 1% of the yearly revenue. The licensee may offer suitable incentives to defaulters in order to ensure recovery of principal dues.

Interest charges on working capital

- 2.26 Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on April 1 of the relevant year plus 2%. The interest on working capital shall be payable on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency or has exceeded the norms set for working capital in these Regulations.

Working capital

- 2.27 (a) Working capital for retail supply activity of the licensee shall consist of:
- (i) Receivables of two months of billing less any consumer security and less power purchase cost of one month,
 - (ii) O&M expenses for one month, and
 - (iii) Inventory (meters, metering equipment, testing equipment are particularly relevant in case of retail supply activity) for 2 months based on annual requirement for previous year.
- (b) Working capital for wheeling activity of the licensee shall consist of
- (i) O&M expenses for one month, and
 - (iii) Inventory (excluding meters, etc. considered part of retail supply activity) for 2 months based on annual requirement considered at 1% of the gross fixed assets for previous year.
- 2.28 The norms described above shall be applicable for each year of the tariff period.

Foreign Exchange Rate Variation (FERV)

- 2.29 Foreign exchange variation risk shall not be a pass through. Appropriate costs of hedging and swapping to take care of foreign exchange variations shall be allowed for debt obtained in foreign currencies. This provision would be relevant only for the projects where tariff has not been determined on the basis of competitive bids.

Tax on income

- 2.30 Income Tax, if any, on the income stream of the licensed business of the licensee shall be treated as an expense and shall be recoverable from the customers. However, the tax on any income stream, other than the licensed business shall not constitute a pass through component in the tariff. Tax on such other income shall be payable by the licensee.
- 2.31 Tax on income if actually liable to be paid, shall be limited to tax on return on equity allowed, excluding incentives.
- 2.32 The benefits of tax holiday and the credit for carrying forward losses applicable as per the provisions of the Income Tax Act, 1961 shall be passed on to the customers.
- 2.33 Income tax shall be provisionally estimated by the Commission for the purpose of determining tariff for a licensee and shall be subject to adjustment as per actual tax paid.

Pension and Gratuity Liability

- 2.34 The amount of unfunded liability of pension and gratuity based on actuarial valuation on the effective date of transfer scheme in respect of employees of MPSEB/ successor entities and the manner of discharging this liability shall be specified by the Commission after consultation with the State Government and the Transmission Licensee. The State Government has amended the transfer scheme notified on 31st May 2005 vide notification issued on 13th June 2005. The State Government has now provided for a creation of separate fund for discharging pension and terminal liabilities of the employees.
- 2.35 The Commission shall allow the actual expenditure incurred on payment of terminal benefits including pension payments of the employees on estimated basis for the ensuing year and shall be provided separately apart from O&M charges. The Distribution Licensee shall provide evidence of having discharged the liability every quarter. Any difference between the allowance and the actual shall be adjusted in the subsequent year. The Distribution Licensee shall disclose the accrued liability towards terminal benefits in the accounts as per the provisions of the Companies Act.

Tariff income

- 2.36 Income from all charges determined by the Commission for wheeling and for supply of electricity to consumers shall be considered as tariff income.

Other Income

- 2.37 Other income as provided in the MPERC (Details to be furnished by generating companies and licensees for determination of Tariff and manner of making an application) Regulation 2004 shall be considered.

Surcharge and additional surcharge from Open Access Customers

- 2.38 Surcharge and additional surcharge under Sections 39, 40 and 42 of the Act shall be considered as income and treated as directed by the Commission.
- 2.39 Revenue from other business shall be treated as income to the extent authorized by the Commission under Sections 51 of the Act.

Profit / loss Sharing

- 2.40 The financial gain or loss to the licensee shall be computed after considering all the incentives together as envisaged in these Regulations.
- 2.41 The profit of the licensee shall not be restricted to the levels stated in these Regulations but can exceed this limit provided that the licensee outperforms the targets set.
- 2.42 In case the licensee makes a profit, the licensee shall be allowed to retain fifty percent of such profit earned from performance above the benchmarks. This position may be reviewed at the start of next tariff period.

Estimation of sales

- 2.43 The licensee shall submit category-wise and tariff slab-wise details of anticipated sale of electricity in MU for each year of the tariff period and also for the preceding two years. Along-with these details, the Licensee shall also provide the number of consumers and connected / contracted load in each category and each tariff slab.
- 2.44 The load forecast for the tariff period should be same as that included in the Business Plan of the Licensee approved by the Commission. If, however, there are variations between these two forecasts, they shall be adequately explained by the Licensee. In the event the Commission is not satisfied by the explanations offered by the Licensee, the Business Plan forecasts shall be considered for the purpose of tariff determination.

- 2.45 The Commission shall examine the forecasts for reasonableness based on growth in number of consumers, consumption, losses and demand of electricity in previous years and anticipated growth in the next year and any other factor, which the Commission may consider relevant and approve purchase of electricity with such modifications as deemed fit.
- 2.46 For the purpose of such estimation Distribution Licensee shall also indicate:
- (a) Category wise open access consumers, traders and other Distribution Licensees using its system. The demand and energy wheeled for them shall be shown separately in respect of consumers;
 - (i) within the area of supply and
 - (ii) outside the area of supply.
 - (b) Sale of electricity, if any, to electricity traders or other distribution licensees shall be separately indicated.

Distribution Losses

- 2.47 For the purpose of computation of tariff in respect of existing Distribution Licensees, the Commission in consultation with the Distribution Licensees has fixed the distribution losses (technical and non-technical losses) as given in the table below:

Table-2: Loss Targets as per the approved Business Plan (in %)

Sl. No.	Distribution Licensee	FY08	FY09	FY10
1.	East Discom	29.5	26.5	23.5
2.	West Discom	27.5	25.0	23.0
3.	Central Discom	32.0	27.5	25.0

The above targets may undergo a modification on the basis of the loss reduction roadmap to be notified by the State Govt. as required under the clause 5.8.10 of the National Electricity Policy.

- 2.48 Each year's projected sales will be grossed up by above indicated percentages to arrive at the figure of power purchase requirement of the particular licensee for such year. The aggregate power purchase requirement for the Tariff Period shall be the basis for computing the revenue needed for power purchase and the same shall be spread over the estimated sales during the tariff period. If the licensee is able to achieve a faster reduction in losses and thus able to save expenses on power purchase, the gains thus made shall be allowed to be retained by the licensee to incentivise the licensee and the staff. The licensee shall be free to reward the employees from out of these gains resulting from accelerated reduction of losses. When the actual sale figures are provided by the Licensee for any year of the tariff period, the Commission shall consider the same for grossing up and determining the allowable power purchase cost.
- 2.49 The Distribution Licensee shall establish consumption of un-metered consumer categories through DTR metering.
- 2.50 In the absence of such energy audit/ sample surveys/DTR metering the Commission shall not accept the claim of the licensee.
- 2.51 The consumers of each group i.e. LT, HT and EHT shall be required to pay the energy charge and respective voltage specific losses (for transmission and distribution as relevant) and the per unit cost shall be fixed for each of the above groups on the basis of power requirement and the anticipated sale to that category. Treatment of extraordinary level of distribution losses in any area may be in accordance with the approach suggested in the National Tariff policy in para 8.2 (2).

Estimate of power purchase requirement and availability

- 2.52 For any year of the tariff period, the Distribution Licensee's requirement of power purchase for sale to its consumers shall be estimated based on the sales forecast, restricted demand forecast and target loss level, as specified in MPERC (Power Purchase and Procurement) Regulations, 2004, as amended from time to time for such year of the tariff period. Transmission losses both interstate and intrastate will be allowed in addition to target loss levels. Power purchase requirement estimates based on past trend of power purchased can be considered provided the licensee gives justification of the methodology adopted.
- 2.53 The Commission shall scrutinize and approve the power purchase requirement and availability for the ensuing year as provided in MPERC (Power Purchase and Procurement) Regulations 2004 as amended from time to time.
- 2.54 The cost of purchase from State Generating Stations shall be projected on the basis of the tariff determined by the Commission. The cost of purchase from the Central Sector Stations shall be based on the applicable CERC order. Distribution Licensee must ensure long-term arrangements for assured power availability through power purchase agreements approved by the Commission.
- 2.55 In respect of projects executed by the State of Madhya Pradesh along with any other State/s the Commission shall determine the tariff in consultation with the other concerned Regulatory Commissions where the responsibility is not assigned to CERC.
- 2.56 The cost of power purchase from other Generating Companies, Traders and other Distribution Licensees shall be as per the PPAs and trading arrangements approved by the Commission subject to clause 2.52 above.
- 2.57 The Cost of power generated by the generating plant of the Distribution Licensee and sold by it to its consumers shall be based on transfer price determined by the Commission.
- 2.58 As required under section 86 (1) (e) of the Act, the Commission vide its order dated 11th June 2004 has fixed the minimum quantum and price of power to be purchased by Distribution Licensees from wind energy generators. This cost shall be included in the ARR while estimating the cost for procurement of power by the licensee. If the licensee fails to buy this prescribed percentage, this amount may be reduced from the ARR at the time of review.
- 2.59 Any financial gain or loss on account of power purchased by the licensee in any year to meet additional losses over and above the approved level of losses shall be borne by the licensee.
- 2.60 The Licensee must keep the UI charges within reasonable limits and must ensure that over-drawals from the central pool during peak hours are avoided as far as possible by encouraging captive generating units to sell power to the licensee during peak demand time when UI rate is high.

Charges payable to Transmission Licensee

- 2.61 The Transmission charges for power purchased from outside the state together with interstate losses and the transmission charges payable to the State Transmission Licensee, along-with admissible intra-state transmission losses shall be taken into consideration while computing the power purchase cost and per-unit energy charges recoverable from respective users.
- 2.62 The reactive energy charges, if any, when these are allowed to the transmission licensee, shall form part of the transmission charges and shall be provided at relevant place while working out the ARR.

Chapter III

METHODOLOGY FOR DETERMINATION OF TARIFF

Determination of tariffs for retail sale consumers

- 3.1 The Commission shall determine the charges recoverable from different consumer categories based on the following principles:
- (a) The cost of energy supplied to consumer and estimated AT&C losses at particular voltage shall be recovered as energy charge;
 - (b) The expenses efficiently incurred on wheeling and retail sale activities shall be recoverable from the consumers on the basis of factors mentioned in Section-62(3) of the Act;
 - (c) The EHT consumers shall not be required to bear wheeling expenses as the distribution system is not involved in supplying power to them, while all consumer categories shall bear the expenses related to retail sale activity;
 - (d) To the extent possible, the fixed charges and energy charges shall be uniform within a particular voltage class. The differentiation in charges within a particular voltage class, if necessary, shall be done based on the factors listed in Section 62(3) of the Act;
 - (e) Tariff minimum: The Commission does not favour tariff minimum to be recovered from EHT/HT/LT consumers. However, the fixed charges linked to contract demand shall be recoverable from the consumers; and
 - (f) Load factor concession: Load factor based concessions in tariff may be allowed to consumers based on the scheme approved by the Commission in its Tariff Order.

Inter-category transfers or cross-subsidy

- 3.2 While the overall process of determining tariff ensures that efficient costs are passed on to all consumers, there is need for ensuring the social objective of providing affordable power to all groups of users without an unbearable tariff shock. Therefore, the Commission shall assess the requirement of relief necessary for the weakest categories of consumers and the aggregate amount required for such support shall be spread judiciously over the energy units consumed by the consumers of such categories as are fit and strong to take the burden of providing cross-subsidy. This charge i.e. the cross-subsidy shall be distinctly shown in the tariff determined for the subsidising consumer categories and shall be progressively reduced each year so as to ensure that by the end of the first tariff period in 2010-11, no consumer category is burdened with cross-subsidy charge higher than 20% of the average cost of supply to that category.
- 3.3 In like manner, the cross-subsidy support given to weaker consumers shall also be progressively reduced and it will be ensured that cross-subsidy charged is equal to cross-subsidy support given in any year amongst the consumers served by a licensee. In respect of fixing tariff for agricultural consumers, provisions of para 8.3.4 of National Tariff Policy shall be considered.

Incentives / Penalties on Power Factor, Load Factor, Demand Side Management

- 3.4 The Commission may provide such rebate to consumers for maintaining appropriate power factor, achieving higher load factor or for implementation of energy conservation measures as decided by the Commission and the same shall be applicable for the duration of the tariff period.
- 3.5 The Commission may also specify seasonal surcharge/Time of use surcharge, power factor/load factor surcharge and reactive energy charges, etc., which shall be applicable for the full duration of the tariff period.

Tariff categories and intimation of tariff rates to consumers

- 3.6 The Commission, while determining the tariff for retail supply of electricity under section 62 shall specify details of charges to be recovered by the distribution licensee from different consumer categories. For the first tariff period, the consumer categories shall broadly comprise of the following, at specified voltage levels:
- Heavy Industrial Use, including Railway Traction
 - Domestic Use
 - Non Domestic Use
 - Public Lighting / Water Supply
 - Agriculture, Irrigation and small scale rural industry
 - Light and Medium scale Industrial Motive Power
 - Religious, Charitable, Educational, training and medical care institutions, if charging Govt. regulated user charges from their clients.
 - Any other as considered appropriate by the Commission
- 3.7 The Commission shall, while determining tariffs for any year of the tariff period, prescribe suitable sub-categories / slabs within the broad categories mentioned above, and shall separately prescribe tariff rates for each such sub-category / slab.
- 3.8 The Commission may require the licensee to send a tariff card to each consumer showing the details of various charges approved by the Commission after each tariff determination.

CHAPTER IV

MISCELLANEOUS

Review at the end and during the tariff period

- 4.1 For each year of the tariff period, actual level of retail sales shall be grossed up by allowed level of losses as indicated in MYT trajectory for estimating power purchase cost subject to justifiable power purchase mix variation (for example, more energy may be purchased from thermal generation in the event of poor rainfall) and fuel surcharge adjustment as per Regulations.
- 4.2 The variations during the tariff period in other approved costs shall be considered by the Commission only if the Licensee is able to prove to the satisfaction of the Commission that these variances are on account of factors beyond its reasonable control. Variations on account of controllable reasons shall be considered only if they have a substantial impact on the business of the Licensee.

- 4.3 At least twelve months before the end of the tariff period, the Commission shall initiate a comprehensive review of norms and the long term tariff principles contained in these Regulations.
- 4.4 Such review shall be with the objective of analysing implementation of the long term principles and making modification or improvement in the norms, principles, procedures and methodology.

Power to remove difficulties

- 4.5 If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order undertake steps or direct the licensees to undertake steps, which in the opinion of the Commission are necessary or expedient for the purpose of removing difficulties.

Power to Amend

- 4.6 The Commission may, at any time add, vary, alter, modify or amend any provisions of these Regulations.

Repeal and Savings

- 4.7 The Regulation namely “Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for distribution and retail supply of electricity) Regulations, 2005 (G-27 of 2005)” published vide Notification No. 2934 /MPERC/2005 in the Gazette dated 23/12/2005 and read with all amendments thereto, as applicable to the subject matter of this regulation is hereby superceded.
- 4.8 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice to meet or to prevent abuses of the process of the Commission.
- 4.9 Nothing in these Regulations shall bar the Commission from adopting, in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of this Regulation, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.
- 4.10 Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no Codes have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

By order of the Commission

Ashok Sharma, Dy. Secretary