## <u>Department of Power</u> <u>Government of Arunachal Pradesh</u>

### **Review Petition**

on

True up Order issued by the Hon'ble APSERC vide order dated 9<sup>TH</sup> January, 2024 (Case No. 02 of 2023)

Submitted to

**Arunachal Pradesh State Electricity Regulatory Commission** 

Submitted By,
Department of Power
Government of Arunachal Pradesh,
Itanagar

2nd February 2024

# Before the Hon'ble Arunachal Pradesh State Electricity Regulatory Commission

Filing No.:
Case No.:
IN THE MATTER OF:
Filing of the Review Petition on the matter of APDoP True-up Order dated 9 <sup>th</sup> January 2024 case No. 02 of 2023 for True-up of FY 2021-22 and 2022-23, under Section 94 of the Electricity Act, 2003 and Regulation 37 of the APSERC (Conduct of Business) Regulations, 2011 and read with the other relevant guidelines.
AND
IN THE MATTER OF THE APPLICANT
Department of Power, Government of Arunachal Pradesh (herein after called 'APDoP' or 'The Petitioner'), which shall mean for the purpose of this Petition the Licensee, having its office at Vidyut Bhawan, Itanagar, Arunachal Pradesh
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#### The Petitioner respectfully submits as under:

- 1. The Petitioner, the Department of Power, Government of Arunachal Pradesh (herein after called APDoP), is a Government Department under the Ministry of Power, Government of Arunachal Pradesh, and is the sole Electricity Distribution Utility for the entire State of Arunachal Pradesh.
- 2. The petitioner, being a Government Department, is a Deemed Distribution Licensee as per Section 14, proviso 3 of the Electricity Act 2003.
- 3. APDOP filed its True-up Petition for approval of Truing-up of FY 2021-22 & FY 2022-23 on 13<sup>th</sup> November 2023 under Sections 61, 62 and 64 of the Electricity Act, 2003 read with Multi-Year Tariff Regulation 2018 notified by Arunachal Pradesh State Electricity Regulatory Commission (hereinafter called "Hon'ble Commission") and the other governing Regulations thereof.
- 4. The Hon'ble Commission has admitted the Petition as Case No. 02 of 2023 after preliminary verification of the petition.
- 5. APDOP is submitting this present Review Petition on the matter of the Tariff Order of Truing-up of FY 2021-22 & FY 2022-23 issued by the Hon'ble APSERC dated 9th January, 2024 on Case No. 02 of 2023 in accordance with Regulation 37 of the BERC (Conduct of Business) Regulations, 2011. The relevant extracts are as follows:
  - "37. Review of the decisions, directions and orders:-
  - (1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/ order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.
  - (2) An application for review shall be filed in the same manner as a petition under Chapter II of these regulations.
  - (3) When if appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.
  - (4) The application for review shall be accompanied by such fee as may be specified by Commission."

- 6. APDoP requests the Hon'ble Commission to admit the Review Petition since:
  - a. No appeal has been preferred so far;
  - b. The Petitioner has identified certain error/s apparent on the face of the record.
  - c. The Petitioner has also identified certain parameters, which the Hon'ble Commission is requested to kindly review based on the submission of APDOP.
- 7. It is submitted that in case the order of the Hon'ble Commission in the above-mentioned Review Petition is in favour of APDOP, the Hon'ble Commission may kindly provide the impact of the desired relief on all the issues raised by APDOP in the petition in subsequent Tariff Order(s).
- 8. It is further submitted that in the instant petition, APDOP has considered the specific ground on which the review is being sought against each aspect of the Order dated 9th January, 2024 case No. 02 of 2023 in subsequent paragraphs:
- 9. APDOP respectfully seeks an opportunity to present their case prior to the approval of the same. APDOP believes that such an approach would go a long way towards providing a fair treatment to all the stakeholders and may eliminate the need for a further review or clarification.
- 10. APDOP may also be permitted to propose suitable changes to the petition on further analysis, prior to the final approval by the Hon'ble Commission.

- 11. In view of the above, APDOP respectfully prays that the Hon'ble Commission may be pleased to consider and approve the following:
  - a. Admit this Review Petition in accordance with Regulation 37 of the APSERC (Conduct of Business) Regulations, 2011;
  - b. Review the proposal submitted by the Petitioner in the enclosed Review Petition for a favourable dispensation;
  - c. Permit to propose suitable changes to the respective Review Petition, prior to the final approval by the Hon'ble Commission;
  - d. Condone any inadvertent omission/errors/short comings and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date;
  - e. Pass desired impact of issues raised by APDOP in review along with in ensuing Tariff Orders in case the review are ruled in favour of APDOP;
  - f. Pass such Order as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case.

Department of Power, Government of Arunachal Pradesh (APDOP) Itanagar, Arunachal Pradesh

Dated: 2nd February, 2024

Commercial cum CEI

Department of Power,

Government of Arunachal Pradesh

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#### (1) Submissions under Review

#### 1.1 ACS-ARR Gap of FY 2021-22 & FY 2022-23

As per the True-up Order, the Total Gap amount proposed by the Department of Power was ₹ 483.36 Cr for FY 2021-22 and ₹ 506.05 Cr for the FY 2022-23 and approved by the Hon'ble Commission for ₹ 463.53 Cr for FY 2021-22 and ₹ 484.81 Cr for FY 2022-23. This gap amount was funded by the Government of Arunachal Pradesh. Hence this gap amount funded by the Government of Arunachal Pradesh may be considered as revenue and included in the ARR.

It is submitted this is an error apparent from records and may be reviewed.

Accordingly, APDOP respectfully prays to the Commission to consider and review its Order dated 9th January, 2024 in respect of the computation of ACS-ARR Gap.

## 1.2 Mechanism for automatic pass-through of fuel and power purchase cost adjustment (FPPCA) charges

It is submitted that according to Section 62, sub-section 4 of the Electricity Act, 2003, tariff adjustments should generally not occur more frequently than once per financial year, unless expressly permitted by the terms of an applicable fuel surcharge formula. The Act mandates the Commission to specify the fuel surcharge formula, but the order issued by the Commission currently lack such provisions.

Therefore, the Hon'ble Commission is requested to consider a mechanism for automatic pass-through of fuel and power purchase cost adjustment (FPPCA) charges.

Accordingly, APDOP respectfully prays to the Commission to consider a mechanism for automatic pass-through of fuel and power purchase cost adjustment (FPPCA) charges.

### 1.3 Determination of ACS and ARR may be done on energy sold both within and outside the state basis

It is submitted that in the True-Up Order for 2021-22 and 2022-23, the calculation of the Average Cost of Supply (ACS) was done based solely on energy sold within the state and the actual values were ₹16.12 for FY 2021-22 and ₹16.95 for FY 2022-23, whereas the Hon'ble Commission has approved ₹15.73 for FY 2021-22 and ₹16.58 for FY 2022-23.

It is further submitted that the Average Cost of Supply (ACS) may be calculated based on total energy sales (within and outside the state), which will result in ACS of ₹9.81 for FY 2021-22 and ₹9.48 for FY 2022-23.

The Hon'ble Commission is requested to consider approving the Average Cost of Supply (ACS) based on total energy sales (within and outside the state), which will result in ACS of ₹9.81 for FY 2021-22 and ₹9.48 for FY 2022-23.

Accordingly, APDOP respectfully prays to the Commission to consider and review its Order dated 9th January, 2024 in respect of the ACS & ARR.

#### (2) Prayers

APDOP respectfully prays that the Hon'ble Commission may be pleased to consider and approve the following:

- a. Admit this Review Petition;
- b. Examine the prayer for Review submitted by the Petitioner in the enclosed Petition for a favourable dispensation;
- c. Pass suitable Orders with respect to the Review Petition;
- d. Permit to propose suitable changes to the Review Petition, prior to the final approval by the Hon'ble Commission.
- e. Condone any inadvertent omission/errors/short comings and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date;
- f. Pass desired impact of issues raised by APDOP in appeals & review along with carrying cost in ensuing Tariff Order in case the appeals & review are ruled in favour of APDOP;
- g. Pass such Order as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case.