

**Minutes of the 15th Meeting of the State Advisory Committee of the
Assam Electricity Regulatory Commission held on 17th February, 2012
at Assam Administrative Staff College, Khanapara**

Members present are as per list at Annexure – I.

At the beginning Shri D.K. Sharma, Joint Director (Tariff) and Secretary in-charge, AERC, welcomed the members present in the meeting and stated the objectives of the State Advisory Committee constituted as per Section 87 of the Electricity Act, 2003. The Chairperson, AERC, Shri J. Barkakati was then requested to preside over the meeting.

Chairperson, AERC welcomed the members and stated the relevance of the State Advisory Committee with regard to the present power scenario in the state. The members were updated on the recent developments that took place after notification of the AERC [Fuel and Power Purchase Price Adjustment (FPPPA) Formula] Regulations 2010 which permits APDCL to recover FPPPA charges from all categories of consumers so as to mitigate any hardship on account of sudden increase in fuel and power purchase prices. It was stated that APDCL imposed FPPPA charge of 69 paise w.e.f. 01.08.2011 on quarterly basis and the Commission is at present conducting prudent checking of the energy supply bills, actual sales data, fuel and power purchase cost etc for confirming the actual compensation regarding FPPPA and adjustments necessary, if any. It was informed that the 13 paise Fuel Surcharge (FPA) allowed by the Commission from 01.07.2010 was to be discontinued after recovery of Rs 40.37 Cr. However, it was informed that an excess amount of Rs 8.38 Cr was reported to have been collected on Fuel Price Adjustment (FPA) which shall be adjusted with the FPPPA charge levied from 01.08.2011.

The Chairperson stated that for the first time in the state of Assam, Multi Year Tariff Order for 2010-13 was issued on 16.05.2011 approving tariff for 2010-11 and Annual Revenue Requirements for all the three years 2010-11, 2011-12 and 2012-13. It was informed that one of the main objectives of the Commission is to ensure supply of reliable, quality power at reasonable rates and the key to this lies in making the distribution segment of the industry efficient and financially secure. The Chairperson stated that the Regulatory Commission needs to strike the right kind of balance between ensuring commercial viability of distribution licensees and protecting consumers'

interests. The members present were urged to take active part in the deliberations and to offer valuable suggestions and advice to the Commission. Shri J. Khosla, Additional Chief Secretary, Power, Government of Assam was then requested to address the gathering.

Speaking on the occasion, Shri Khosla stated that the Advisory Committee Meeting provides an important Forum where the Regulatory Commission would like to receive feedbacks/ suggestions from the members for structuring future directions for power sector development in the state. It was hoped that there would be useful discussions on the agenda items and the members would share their concern and offer suggestions on the challenges before the government, regulatory commission and stakeholders regarding improvement in the power sector in the state. It was suggested that for incentivizing reduction of losses and good quality of supply can be one way for achieving the same. Shri Khosla stated that the DSM regulations of the Commission are an important step and if properly implemented, it would go a long way in restricting demand growth. It was suggested that TOD tariff may be introduced for various consumer categories. Emphasis was given on e-governance for addressing consumer grievances in a faster and more efficient manner and reduction of AT&C losses. Shri Khosla stated that while consumers are willing to pay higher tariffs, it is the duty of the Distribution licensee to provide good quality power to the consumers and adhere to standard of performances specified by the commission, that since OA regulations are already in place whatever actions are necessary for availing OA by any consumer/ customer is required to be completed by the Distribution licensee, transmission licensee and the nodal agency (SLDC).

Chairperson, AERC then requested Shri S C Das, ASEB to speak on the power sector scenario in the state. Shri Das thanked the Commission for organising the meeting and informed that the present demand during peak and off peak hours were 1150-1200 MW and 750-800 MW respectively. During last year peak power shortage was to the tune of 250-300 MW and a power purchase of 120-150 MW were made round the clock. It was stated that due to this increased power purchase cost, the licensee is reeling under severe cash deficit of Rs 300 Cr. Shri Das expressed his gratitude to the GOA for sanctioning an amount of Rs 187Cr to APDCL for tidying over the cash deficit to some extent. It was informed that the new power stations which

were expected to be commissioned this year like 726 MW Palatana project by OTPC (ONGC Tripura Power Company) and 750 MW NTPC Bongaigaon project are unlikely to be commissioned before end of December 2012 and July 2013 respectively. Shri Das stated that the 37.2 MW Lakwa waste heat project was commissioned in January this year. It was informed that the licensee is now contemplating to enter into long term supply agreement with power traders after inviting tenders due to increased demand in power. Chairman, ASEB stated that the FPPPA charge of 69 paisa levied from 1st Aug'2011 is not enough to meet the power purchase expenses. It was informed that the CCGS (central sector generating stations) located in the north east which are major source of power have claimed Rs 425 Cr as arrear payment from 01/04/2009 onwards till 2011 and this amount needs to be paid within 6 months. It was further informed that APDCL has filed a petition before the APTEL seeking that an order be issued for paying the amount of Rs 425 Cr in 24 installments. It was also informed that the licensee will file a writ petition in the Hon'ble Gauhati High Court. Chairman, ASEB requested the Commission to include the excess power purchase which could not be accommodated in the FPPPA charge due to ceiling of 25% of the variable component of tariff in Clause 5.2 of the FPPPA Regulations. It was informed that the number of consumers have increased from 10 Lakhs to 23 Lakhs in a couple of years. It was also informed that online payment of bills for greater Guwahati area would be started from 20th February 2012. It was further informed that the licensee has taken steps for improving services to the consumers in rural areas including setting up of consumer service centre where consumers can file complaints, take service connections etc.

The Chairperson, AERC stated that the variation in power purchase will be dealt with as per provision 110 of the AERC Tariff Regulations 2006 which states that – *“Any power purchased by the ASEB Trader over and above the requirement of power approved by the Commission or variation in the mix of power purchased in any year shall be considered by the Commission if it is for reasons beyond the reasonable control of the ASEB Trader and the resultant financial loss or gain shall be adjusted in next years' tariff. Any financial gain or loss on account of power purchased by the ASEB Trader in any year over and above the approved level and not covered by the clause above shall be borne by the ASEB Trader.”*

Chairperson, AERC expressed satisfaction that the 37.2 MW Lakwa Waste Heat Recovery Project was commissioned and from reports available with the Commission,

the existing power plants of APGCL are also performing well. It was stated that with no major capacity additions in the grid either from the central sector/state sector projects and with increase in demand for electricity, power shortage during peak hours may continue for some time until NTPC Bongaigaon is commissioned. It was informed that the Commission would make efforts to reduce the cross subsidy surcharge as is mandated in the Electricity Act 2003.

Thereafter, the following deliberations were made as per agenda.

Agenda Item No. 1 : To confirm minutes of the 14th meeting of the State Advisory Committee

The minutes of the last meeting of the Advisory Committee held on 23.11.2010, was placed before the Committee for confirmation and discussions were held on these minutes of the last meeting.

The representatives from AASSIA and NESSIA stated that in the last meeting of the Advisory Committee held in November 2010, there was a discussion on whether manufacturing units certified by DIC should be treated as industry for tariff purpose. As recorded in the minutes of the last Advisory Committee Meeting, the Chairman ASEB had assured the members that a circular would be issued clarifying the matter and directions would be given to its field officers accordingly. However, it was informed that the circular was not issued till date. The Chairman ASEB once again assured the house that a circular will be issued within the next 7-10 days.

The Chairperson, AERC had expressed concern in the last meeting that most of the distribution transformers were yet to be metered. The representative from AASSIA also expressed deep concern in the matter. Chairman, ASEB informed that Rs 2.14 Cr was sanctioned for purchase of meters for 11 KV transformers. Chairperson AERC urged that DTR metering be completed on an early date. Chairman ASEB replied that metering was being carried out in a phased manner under APDRP and R-APDRP schemes. The Chairperson, AERC requested the Chairman ASEB that a metering status report (circle-wise) be submitted to the Commission within one month from the date of this meeting.

Action to be taken by: APDCL/ASEB

Agenda Item No. 2 : Action taken report on the minutes of the 14th meeting of the State Advisory Committee.

The action taken reports on the minutes of the last meeting were submitted by the companies for information of the members. Copies of the same were also distributed among the members in the meeting.

Agenda Item No. 3 (i): Appraisal of the MYT Tariff Orders for FY 2010-13 of the Commission dated 16.05.2011 in respect of APGCL, AEGCL and APDCL against their petitions for FY 2010-11, 2011-12 and 2012-13 — status of compliance of Directives.

The Chairperson, AERC stated that in the Multi Year Tariff orders issued on 16th May, 2011 for generation, transmission and distribution utilities, the Commission issued a number of important directives for compliance by the utilities within specified time frames. The list of directives along with their compliance status was circulated among the members for appraisal. While appreciating the efforts made by APGCL to comply with most of the directives and submit reports, the Chairperson observed that APDCL did not submit any action taken report on the directives within the specified timeframes as in the Order. It was informed that reports on the compliance of directions were submitted by APDCL at the last moment before the meeting, and therefore, the details could not be shared with the members. The Chairperson drew attention of the members to the direction regarding use of handheld computers to read/ record the meter reading and serving on the spot bills for LT consumers.

Chairman, ASEB informed that around 3000 Spot Billing Machines (SBMs) were procured under APDRP schemes but there were difficulties in synchronizing the same with the computers. It was informed that there were consumers still using electromechanical meters where SBMs are not usable. It was further informed that investment required is also quite high. Representatives from AASSIA, NESSIA and Grahak Suraksha Sanstha stated that SBMs should be introduced at least as a pilot project in a few areas for LT consumers to avoid errors in meter reading/ recording and delay in serving bills. Chairperson AERC also stated that the possibility of introducing SBMs for LT consumers should be explored by the licensee for improving bill payment.

Chairman, ASEB agreed to the suggestions by the members and stated that SBMs can be introduced as pilot schemes in some areas. He also suggested that bimonthly billing system may be introduced in Guwahati to reduce billing and meter reading expenses of the licensee.

Action to be taken by: APDCL/ASEB

Agenda Item No. 3 (ii): Appraisal on Tariff Order of the Commission dated 20.10.2011 for FY 2008-09 in respect of M/s EIPL (DLF).

Chairperson AERC stated that the Commission issued Tariff Order on 20th October 2011 for Adamtilla (9 MW) & Banskandi (15.5 MW) Power plants of M/s EIPL at Barak Valley for FY 2008-09. A note on this agenda item was circulated among the members in the meeting incorporating the important features of the order and directions issued. Chairperson AERC informed that in the Tariff Order, the Commission directed M/s EIPL to renew its Gas Supply Agreement which expired in October 2010 within 31st December, 2011, but the same has not been executed. Meanwhile, the distribution licensee has filed a review petition which is under the process of examination by the Commission.

Agenda item no 4 (a): Discussions on AERC (Demand Side Management) Regulations, 2011.

The Chairperson, AERC apprised the members of the Assam Electricity Regulatory Commission (Demand Side Management) Regulations, 2011. He informed that the draft Regulations were already sent to ASEB, its successor companies, Assam Energy Development Agency, Chief Electrical Inspector and Advisor to the Government of Assam and has been notified in widely circulated local newspapers and all members of the State Advisory Committee for comments/suggestions and also placed in the official website of the Commission as previous publication. He also informed that comments were received from a few stakeholders and replies were being sent from the Commission. As the members raised no objection to any of the provisions in the Regulations, these Regulations can now be sent for gazette publication.

A power point presentation was made on a few ways to implement DSM activities in the state of Assam by the distribution licensee, Government and Guwahati

Municipality Corporation.

Chairperson, AERC suggested that the Bachat Lamp Yojana (BLY) – using CDM programmes may be introduced where consumers would be provided CFLs at low price in exchange for any incandescent bulb. Chairman, ASEB informed the members that although efforts were made by the distribution licensee to introduce this scheme, no company selling CFLs showed interests in the scheme and therefore, the proposal had to be abandoned. However, it was informed that 20 lakh CFLs were distributed among consumers free of cost by the Government of Assam as a measure to save power and create awareness among the consumers. Chairperson AERC also suggested that the distribution licensee may procure 3 Star rated transformers and amorphous core transformers for improving performance of transformers. Chairman ASEB informed that all the new transformers purchased were 3 Star rated transformers. and 16 KVA amorphous core transformers were procured in the RGGVY schemes. Chairperson AERC asked the distribution company to submit a report on such transformers within 2 months from the meeting.

Chairperson AERC further suggested that the buildings with connected load of more than 20KW and consumers having connected load of above 100 KVA be considered for energy audit. Some DSM measures like Time of Day (TOD) tariff , granting power factor incentives, etc has already been implemented by the licensee. The Chairperson stated that the Commission may allow special rates in tariff to those buildings certified annually by BEE to be compliant with ECBC (Energy Conservation Building Code) and requested the Government of Assam to do the needful in this regard. Addl Chief Secretary to the Government of Assam, Power Department, Shri Khosla informed that the Government of Assam is considering the matter.

The Chairperson AERC then suggested a few DSM projects which may be implemented by the Guwahati Municipal Corporation (GMC). It was suggested that street light may be converted from HPMV to HPSV-Low wattage or LED. The Commissioner, GMC informed that the billing revenue from street lighting is not much and therefore funds for such conversion is not available. Chairperson AERC also suggested some other DSM measures like auto switch ON/OFF street lighting, use of alternate street lighting-auto circuitry after midnight, running Air conditioners at 24°C, using star labelled Refrigeration Programme, introducing Energy Conservation Building Code (ECBC), making solar heating systems compulsory in large buildings,

hospitals and commercial complexes etc., which can go a long way in effective conservation of power and reduce power shortages. It was also suggested that the distribution licensee may check from time to time whether peak load of municipal pump/water work connections coincided with the licensee's load.

Action to be taken by: APDCL/GMC/State Government, Power Department.

Agenda Item No. 4(b): Draft AERC (Furnishing of Technical Details by Generating Companies) Regulations, 2012.

As per section 10(3a) of the Electricity Act, 2003, every generating company shall submit technical details regarding its generating stations to the appropriate Commission and Authority. In line with this, CERC has notified Regulations vide No. L-7/138/153/2008-CERC dated 14th October, 2009 namely, CERC (Furnishing of Technical Details by Generating Companies) Regulations, 2009.

Accordingly, Assam Electricity Regulatory Commission in line with the above procedure made the AERC (Furnishing of Technical Details by Generating Companies) Regulations, 2012 for necessary follow up by Thermal and Hydro generators of Power in the State of Assam. The Renewable Sources of Energy, namely Bio Mass, Biogas, Bagasse based Co-generation, Small Hydro, Solar PV, Solar Thermal Power Stations have also been covered under the said provisions. These draft Regulations were already sent to ASEB, its successor companies, all members of the State Advisory Committee for comments/suggestions and has been notified in widely circulated local newspapers and also placed in the official website of the Commission as previous publication. Comments were received from the All India Manufacturer's Organisation (AIMO) Member, SAC and reply was sent from the Commission. These Regulations were placed before the members for discussion and no further comments were received. The Regulations can now be sent for gazette publication.

Action to be taken by: AERC.

Agenda Item No. 4(c): Draft AERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2012

There is an emerging energy supply-demand imbalance in the state which makes it imperative to harness the renewable energy resources wherever and whenever possible

and the Commission requires making adequate arrangements to encourage promotion of renewable energy. Initiatives need to be taken to make renewable energy affordable to the common masses and encourage renewable projects in the state.

According to Section 61 (h) of the Electricity Act 2003, the Commission is required to specify the terms and conditions for determination of tariff for promotion of co-generation and generation of electricity from renewable sources of energy. In line with this, the Central Electricity Regulatory Commission (CERC) has notified Regulations vide No. L-7/186/(201)/2009- CERC dated 16th September, 2009 namely- CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations 2009. Accordingly, with the same objectives, AERC made these Regulations for determination of tariff from Renewable Energy Sources.

These draft Regulations were already forwarded to ASEB, its successor companies, all members of the State Advisory Committee for their comments/suggestions, and has been notified in widely circulated local newspapers apart from posting the same in the official website of the Commission as previous publication. Comments were received from the All India Manufacturer's Organisation (AIMO) Member, State Advisory Committee and reply was forwarded from the Commission. These Regulations were placed before the members for discussion and a member from FINER suggested change in Clause 8 of the aforementioned Regulations. He suggested that the tariff period for all Small Hydro Power Projects below 25 MW may be fixed as 35 years instead of projects below 5 MW only. Chairperson stated that the issue would be examined in proper perspective and action would be taken accordingly before sending the same for gazette notification.

Action to be taken by: AERC.

Agenda Item No 4 (d): Draft AERC (Compliance Audit) Regulations, 2012

The Chairperson, AERC explained that the Forum of Regulators prescribed Regulations on Compliance Audit of Regulated Entities for verifying their compliance with the Electricity Act, 2003 and Regulations made there under. Accordingly, these Regulations were framed. As per these Regulations, the Commission may, at any time, conduct audit of Regulated Entity for verifying

their compliance with the Act, Rules, Regulations made thereunder, orders and directions issued by the Commission.

Chairperson, AERC stated that the Commission received comments from APDCL on these Regulations and it appears that there are some confusions regarding the role and jurisdiction of Compliance Auditors with that of the Statutory Auditor/CAG. It was clarified that the role of compliance auditors would be entirely different. The sole purpose of compliance auditors would be to verify compliance with the provisions of the EA, 2003, Rules, Regulations, Orders and directions issued by the Commission. Compliance auditors would not interfere with the activities of the statutory auditors/CAG on accounts and financial aspects. These Regulations would also help in appointing compliance auditors for the purpose of RPO.

There were no further comments from the members. These Regulations may now be sent for final publication.

Action to be taken by: AERC

Agenda Item No. 4 (e): Draft Assam Electricity Regulatory Commission (Electricity Ombudsman) Regulations, 2004 (First Amendment) 2011.

The chairperson, AERC stated that at present, the Ombudsman is allowed a consolidated remuneration of Rs.25,000/- (Rupees twenty five thousand) per month as stipulated by the regulation 6(1) of AERC (Electricity Ombudsman) Regulations, 2004 and any pension to which Ombudsman is entitled from the Central Government or a State Government or any other organization institution is deducted from the remuneration.

The Chairperson said that consequent to the revised pay scale declared by Government of Assam for government employees on 4th February, 2010 and 6th Pay Commission report of Government of India, there has been upward revision in salaries of the officers and State Government/State autonomous bodies and Central Government departments/Government of India Undertaking and Enterprises. It was further opined that as the post of Ombudsman is held by a senior retired officer from Government of Assam/State Autonomous Bodies/State Government utilities or Government of India/Central Government utilities, therefore, necessary revision is also required to be

made for the Electricity Ombudsman. It is therefore proposed that the consolidated remuneration be enhanced from existing Rs.25,000/- (Rupees twenty five thousand) only per month to Rs.45,000/- (Rupees forty five thousand) only per month. Accordingly, it was proposed to amend the existing regulations.

Chairman ASEB stated that all cost on account of Ombudsman has to be borne by the distribution licensee which is ultimately passed on to the consumers. It was therefore, requested that the Commission may make necessary amendments to the Regulations so that all costs pertaining to the Ombudsman are reimbursed by the Commission as the licensee is always fund starved and enhancement of any expense even if on account of pay revision exerts pressure on its finances.

Chairperson AERC noted the above suggestion but remarked that since Ombudsman is a part of the grievance redressal mechanism, cost needs to be borne by the licensee. It was however, informed that the matter may be considered by the Commission before gazette notification.

Action to be taken by: AERC

Agenda Item No. 4 (f): Draft Amendment to the AERC (Fuel and Power Purchase Price Adjustment Formula) Regulations, 2010.

The Commission made amendment to Regulation 5.15 of the Assam Electricity Regulatory Commission (Fuel and Power Purchase Price Adjustment Formula) Regulations, 2010, namely:-

The sentence, “The amount of fees shall be zero point zero five percent (0.05%) of the claimed amount” should be read as “The amount of fees shall be zero point one percent (0.1%) of the claimed amount”.

There were objections from the representatives of APDCL to this hike. The Chairperson, AERC explained that in the original draft Regulations, 0.1% of the claimed amount was proposed. However, APDCL proposed that 0.05% should be adequate and the amount was reduced to 0.05% as per their suggestion. Now, scrutiny and prudent checking of FPPPA charge levied by APDCL is done with the help of consultancy services and in current situation, the compensation payable to the consultants is much more than what is realized from the fee on FPPPA petition. Therefore, from the ground situation, it is seen that minimum 0.1% of the claimed amount is required to meet the expenses. The fee may be recovered by APDCL from

the tariff as stipulated in the AERC Fee Regulations 2009. Thus, it is necessary to replace 0.05% with 0.1%. The Regulations may now be sent for final publication.

Action to be taken by: AERC

Agenda Item No. 5: Constitution of Monitoring Committees for –

- i) Improvement of quality of power supply and standard of performance of APDCL;**
- ii) Review of performance of APGCL;**
- iii) Review of performance of AEGCL.**

Supply of reliable and quality power of specified standard in an efficient manner and at reasonable rates is one of the main objectives of the Commission. The AERC notified the standards of performance of licensees with respect to quality, continuity and reliability of service for all consumers in 2004. These regulations also detail the norms for payment of compensation to consumers on demand in case of non-compliance of guaranteed standards by the distribution licensee. Similarly, directives are issued to the Generation Company and Transmission and distribution licensee for increasing efficiency; encourage economical use of resources, timely completion of ongoing projects etc. in the Tariff Orders issued by the Commission. Making these different segments of the power industry efficient and solvent is the key to success of power sector reforms and better service to consumers.

In view of the above, the Commission proposed to constitute three different Committees incorporating members from the concerned utility, State Government, State Advisory Committee (SAC) and Consumer Groups to monitor the improvement of quality of power supply and standard of performance of APDCL; review the performance of APGCL; and review of performance of AEGCL. The draft orders in this regard were placed for appraisal and suggestions of the members.

The Chairperson AERC asked if there were any comment /objection to the notifications. The members present agreed to the suggested notifications. The draft notifications may now be finalized and intimations sent to the parties concerned for further action by the Committees.

Action to be taken by: AERC/ members of the committees.

Agenda Item No. 6: Appraisal of the Judgment of the Appellate Tribunal for Electricity in Appeal OP No. 1 of 2011 dated 11.11.2011 on tariff revision.

The Chairperson AERC informed the members on the recent judgment of the Hon'ble APTEL dated 11.11.2011 and the directives given to the SERCs. A gist of this Judgment as discussed in the meeting is recorded below.

The Ministry of Power through its Secretary sent a letter to the Chairperson of the Appellate Tribunal for Electricity dated 21.1.2011 complaining that most of the State distribution utilities have failed to file annual tariff revision petitions in time and as a result in a number of States, tariff revision has not taken place for a number of years and that State Commissions constituted all over India have also failed to make periodical tariff revisions suo-moto resulting in the poor financial health of the State distribution utilities. Due to this fact, the Power Ministry requested this Tribunal to take appropriate action by issuing necessary directions to all the State Commissions to revise the tariff periodically, if required by suo moto action, in the interest of improving the financial health and long term viability of the electricity sector in general and distribution utilities in particular.

The Tribunal entertained the letter from MOP, GOI as a suo-moto petition and issued notices to all State Commissions and to the Forum of Regulators inviting their responses through their status reports. On the basis of these reports and after long deliberations and analysis, the Hon'ble Tribunal issued the following directions to the State Commissions:

(i) Every State Commission has to ensure that Annual Performance Review, true-up of past expenses and Annual Revenue Requirement and tariff determination is conducted year to year basis as per the time schedule specified in the Regulations.

(ii) It should be the endeavour of every State Commission to ensure that the tariff for the financial year is decided before 1st April of the tariff year. For example, the ARR & tariff for the financial year 2011-12 should be decided before 1st April, 2011. The State Commission could consider making the tariff applicable only till the end of the

financial year so that the licensees remain vigilant to follow the time schedule for filing of the application for determination of ARR/tariff.

(iii) In the event of delay in filing of the ARR, truing-up and Annual Performance Review, one month beyond the scheduled date of submission of the petition, the State Commission must initiate suo-moto proceedings for tariff determination in accordance with Section 64 of the Act read with clause 8.1 (7) of the Tariff Policy.

(iv) In determination of ARR/tariff, the revenue gaps ought not to be left and Regulatory Asset should not be created as a matter of course except where it is justifiable, in accordance with the Tariff Policy and the Regulations. The recovery of the Regulatory Asset should be time bound and within a period not exceeding three years at the most and preferably within Control Period. Carrying cost of the Regulatory Asset should be allowed to the utilities in the ARR of the year in which the Regulatory Assets are created to avoid problem of cash flow to the distribution licensee.

(v) Truing up should be carried out regularly and preferably every year. For example, truing up for the financial year 2009-10 should be carried out along with the ARR and tariff determination for the financial year 2011-12.

(vi) Fuel and Power Purchase cost is a major expense of the distribution Company which is uncontrollable. Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase cost adjustment should preferably be on monthly basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must put in place such formula/mechanism within 6 months of the date of this order.

The Hon'ble Tribunal directed all the State Commissions to follow the above directions scrupulously, and send periodical reports by 1st June of the relevant financial year about the compliance of these directions to the Secretary, Forum of Regulators, who in turn will send the status report to this Tribunal and also place it on its website. The Chairperson AERC asked the licensees to act accordingly and help the Commission in complying with the directives of the Hon'ble Tribunal.

Action to be taken by: AERC/APDCL/AEGCL/APGCL

Agenda Item No. 7: Presentation by APDCL/APGCL on implementation of FPPPA Formula Regulations — August-September-October, 2011 (quarter).

The licensee prepared a presentation on implementation of FPPPA Formula Regulations for the quarter August-September-October, 2011 but the presentation could not be made due to paucity of time. The licensee however, submitted hard copies of the presentation to the Commission. Chairman ASEB said that details regarding implementation of the FPPPA charge including the computation will be provided in the website of the licensee as per the AERC FPPPA Regulations.

Agenda Item No. 8: Tariff for Open Access Consumers in light of the circular of the Ministry of Power, GOI, dated 30.11.2011 — operationalization of non-discriminatory open access.

The Chairperson AERC stated that the concept of Open Access in the electricity sector was introduced in the Electricity Act, 2003 with a view to promoting competition and providing the consumers a choice and was clearly perceived as a critical feature of power market development and competition. It was informed that the Ministry of Power, GOI in its letter dated 30.11.2011 opined that all 1 MW and above consumers are deemed as Open Access consumers and the regulator has no jurisdiction over fixing the energy charges for them. Therefore, the Commission is now required to implement the provisions relating to open access in light of the above opinion and the licensees are required to take necessary steps for operationalization of open access as per the AERC Open Access Regulation'2005. A power point presentation was made on some important provisions in the Regulations which need to be implemented by the licensees. The discussions are briefly dealt with below:

The AERC Open Access Regulation' 2005 allows open access for 3 MW and above consumers from April 2006. It is stated in the Regulations that APDCL shall apply for long term open access to AEGCL within 90 days from notification of this Regulation including submission of load forecasting data for 5 years (Reg. 5.2). Reg. 5.4 also states that APGCL shall apply for long term open access to AEGCL within 90 days from notification of this Regulation including submission of generation capacity and evacuation requirement. Similarly there are other actions to be taken for

operationalisation of Open Access as laid down in these Regulations. AEGCL is required to notify draft guidelines, procedures and application form within 90 days for applying for long term Open access after obtaining approval of the Commission. Similarly, AEGCL, APDCL and SLDC are required to draft Model agreements and submit the same to the Commission for review and approval.

The Chairperson AERC expressed concern that none of these have been done by the licensees till date.

Officers from the distribution and transmission licensees contended that there was no application for open access until one recently. Further, the Commission has not notified the wheeling charges, cross subsidy surcharges etc., for open access consumers.

The Chairperson AERC stated that the wheeling and cross subsidy surcharge for open access could not be notified in the Tariff Order for FY 2010-13 as complete data/information was not available with the Commission at that time. However, the Commission directed the distribution licensee to provide the requisite information and the process for notifying the open access charges is in progress and will be notified shortly. Meanwhile, the licensees were asked to comply with the provisions of the Regulations.

Shri Khosla, Addl Chief Secretary to Government of Assam welcomed the discussion on open access and asked the members to take advantage of these regulations to set up industries within the state. The licensees were requested to comply with the provisions in the Regulations and do the needful on their behalf without any further delay.

Officers of the licensees stated that the Regulations provided only for intra state open access and needs to be properly amended. The Commission clarified that in the regulations it is clearly mentioned in Regulation 4.7 and Regulation 4.8 that *“An open access consumer, who wishes to purchase electricity from outside of the State of Assam, must comply with the regulations issued by the Central Electricity Regulatory Commission with respect to gaining access to the inter-state transmission system and the transmission system of the state where the point of injection of the generator or*

trader is located.

A generator located in Assam, who wishes to sell electricity outside of the State of Assam, must comply with the regulations issued by the Central Electricity Regulatory Commission with respect to gaining access to the inter-state transmission system and the transmission system of the state where the drawal point of the distribution licensee, open access consumer, or trader is located.” Therefore, it was informed that there is no ambiguity in these Regulations regarding its applicability. The Chairperson AERC opined that a hearing may be held between the open access customers/ consumers at the Commission to discuss the issue in greater details, if necessary.

The member from FINER stated that they have recently applied for open access but the licensees have not shown promptness in the matter. Chairperson, AERC commented that after going through their copy of the application for open access it was found that complete information was not provided along with the application. The member was advised to read the AERC Open Access Regulations and visit websites of other States where open access has been successfully implemented like Orissa, Gujrat etc. so as to understand the type of information that was required to be provided while applying for open access. Meanwhile, the licensees were asked to prepare the draft agreements, application forms etc for approval by the Commission.

A member from NESSIA expressed concern that if the bulk and industrial consumers opted for open access, the health of the distribution licensee might deteriorate as it will be left with only the LT and domestic consumers where losses are more.

Chairman ASEB assured the member that since cross subsidy surcharge and wheeling charges will be collected by the distribution licensee from the open access consumers; there was no reason to panic.

Action to be taken by: AERC/APDCL/AEGCL/SLDC

Agenda Item No. 9: Any Other matter

The member from NESSIA wanted to know the status of revival of the Chandrapur

thermal power station. Chairman ASEB informed that although the plant can be revived but the only impediment is in getting coal linkage to the plant.

The member asked if the records of objection hearings by the distribution licensee in the Central Electricity Regulatory Commission against power price hike by NEEPCO, NHPC etc are available with the licensee and can be updated in the website for the consumers of Assam.

Chairman, ASEB replied that the documents are quite bulky. However, these can be made available for public scrutiny.

No other matter was discussed and the meeting ended with a vote of thanks offered by Shri T. Mahanta, Deputy Director (Engineering) to everyone present in the meeting.

Sd/-
(J. Barkakati)
Chairperson,
Assam Electricity Regulatory Commission

**List of Persons attending the 15th Meeting of the
State Advisory Committee held on 17th February, 2012**

- (1) **Shri J. Barkakati**, Chairperson, AERC
- (2) **Dr. R. K. Gogoi**, Member, AERC
- (3) **Shri T. Chatterjee**, Member, AERC
- (4) **Shri J. Khosla**, IAS, Addl. Chief Secretary, Govt. of Assam
- (5) **Shri S. C. Das**, IAS, Chairman, ASEB.
- (6) **Shri S. Abbasi**, IAS, MD, APGCL
- (7) **Shri H. Narzary**, IAS, Commissioner & Secretary, Power Deptt., Govt. of Assam
- (8) **Shri Puru Gupta**, IAS, Commissioner, GMC
- (9) **Shri D. P. Das**, MD, AEGCL
- (10) **Shri S. K. Saha**, CGM (F&A), AEGCL & APGCL
- (11) **Shri Sanjib Baruah**, GM (Com-T), APDCL
- (12) **Shri Krishna Phatowali**, CGM, APGCL
- (13) **Shri B. Paul**, CGM, AEGCL
- (14) **Shri P. K. Dutta**, CGM (Com), APDCL
- (15) **Shri A. Sharma Baruah**, CGM, UAZ, APDCL
- (16) **Shri Saurabh Agarwala**, Member, FINER
- (17) **Shri Sunil Kr. Agarwal**, Member, FINER
- (18) **Shri Anuj Kumar Baruah**, President, AASSIA
- (19) **Shri Gopal Ch. Baishya**, President, Grahak Suraksha Sanstha
- (20) **Shri Sailen Baruah**, President, NESSIA
- (21) **Shri Kumud Ch. Medhi**, State Secretary, NESSIA

Officers of AERC present :

- (1) **Shri Deepak Kumar Sharma**, Joint Director (Tariff), AERC
- (2) **Shri Tapan Mahanta**, Deputy Director (Engg.), AERC
- (3) **Shri Alik Purkayastha**, Deputy Director (Finance), AERC

Consultants of AERC present :

- (1) **Shri Anil Kr. Borthakur**, Senior Consultant, AERC
- (2) **Shri A.K. Thakur**, Legal Advisor, AERC
- (3) **Shri P.C. Sarma**, Consultant (Regulations)
- (4) **Ms Panchamrita Sharma**, Consultant (Finance, Database and Consumer Advocacy)
- (5) **Shri Nipen Deka**, Consultant (Technical)