

FORUM OF INDIAN REGULATORS

Sectt: Central Electricity Regulatory Commission,
Core-3, 7th Floor, SCOPE Complex, Lodhi Road, New Delhi-110 003

Subject: Minutes of the 14th Governing Body Meeting of Forum of Indian Regulators (FOIR) held on 25th March, 2004 at Dehradun

1. List of participants is enclosed.
2. Shri G.P. Rao, Hony. Chairman, FOIR, welcomed all the participants. Initially the order dated 13 November 2003 of Government of Karnataka with reference to constitution of Coordination Forum at the State level with Chief Secretary of State Government as the Chairperson was taken up for discussion. The Governing Body was of the view that as per the Electricity Act 2003, Chairman, KERC should be the Chairperson of the said Coordination Forum and Chairman, KERC should write to the State Government of Karnataka quoting the relevant provisions of the Act. It was felt that certain issues should be informally brought to the notice of Govt. of India by FOIR.
3. The constitution of Governing Body of FOIR was discussed in the wake of scheduled retirement of Hony. Chairman, FOIR - Shri G.P. Rao, Chairman. APERC on 2nd April 2004. It was decided that the elections to the Governing Body of FOIR can be held at the time of Annual General Body Meeting of FOIR in June 2004 at New Delhi and till such time the senior most Member – Shri P. Subrahmanyam, Chairman, MERC should hold the post of Hony. Chairman, FOIR.
4. The Governing Body decided that presentation of Momentos/Bouquets to retiring/outgoing Members of FOIR should be made a regular feature. With regard to the assignment given to TERI on 'Compilation of Electricity Tariff Orders' by FOIR, Shri G.P. Rao, Hony. Chairman expressed that FOIR would make payment of Rs.6 lacs only to TERI and the balance amount was to come from GOI/MOP. Shri P. Subrahmanyam, Chairman, MERC, mentioned that no approval of Govt. of India has so far been received.
5. The Governing Body discussed the issue of roles of FOR (Forum of Regulators) and FOIR (Forum of Indian Regulators). It was expressed that FOIR has wider participation and discussions are informal. It was felt that the Members of SERCs/CERC have rendered significant contribution in FOIR and as such the individuality of FOIR should be maintained. It was viewed that FOR which is to be constituted by Govt. of India, will be more useful for interaction with the Government while FOIR can always assist the FOR on various issues.
6. The Agenda items of the 15th General Body Meeting scheduled for 25th and 26th March 2004, were discussed and approved. The Meeting ended with a vote of thanks to the Chair.

LIST OF PARTICIPANTS IN THE 14TH GOVERNING BODY MEETING OF FORUM OF INDIAN REGULATORS (FOIR) HELD ON 25TH MARCH, 2004 AT DEHRADUN

S.No.	Name	Designation/Office
1.	Shri G.P. Rao	Chairman, APERC
2.	Shri P. Subrahmanyam	Chairman, MERC
3.	Shri Arun Kumar	Chairman, RERC
4.	Shri S.S. Gupta	Chairman, HPERC
5.	Shri Hemant Jain	Executive Treasurer, FOIR

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1. List of participants is enclosed.
2. Shri G.P. Rao, Hony. Chairman, FOIR welcomed all participants and thanked Shri Divakar Dev, Chairman, UERC for making excellent arrangements for the FOIR Meeting. The General Body welcomed the new Members to FOIR – Shri Bhanu Bhushan, Member CERC, Shri K.P. Gupta, Member GERC and Shri T. Bajaj, Secretary HERC. In his welcome address, the Hony. Chairman recalled the excellent arrangement and hospitality extended by RERC and MPERC in the past for hosting the FOIR Meetings at Jaipur and Bhopal respectively.
3. The Minutes of the 14th General Body Meeting of FOIR held at New Delhi on 15th and 16th January 2004 were confirmed. Discussions were initiated on the order dated 13th November 2003 of State Govt. of Karnataka with regard to constitution of a Coordination Forum at the State level. The General Body expressed that the Coordination Forum constituted by the Karnataka State Govt. was not as per the provisions of Electricity Act 2003. Hony. Chairman, FOIR informed that Chairman, KERC has already taken up the matter with Govt. of Karnataka and FOIR can take up these issues only informally as has been done in the past. The Members of the General Body were of the view that the entire Karnataka State Electricity Regulatory Commission should not attend the Meetings of said Coordination Forum and the same could be advised from this Forum.
4. Hony. Chairman, FOIR requested the Members to discuss the development and experience of the various Regulatory Commissions since the last General Body Meeting held New Delhi on 15th & 16th January, 2004.
 - 4.1 Shri G. Subba Rao, Chairman GERC, informed that a new Member had joined GERC and there was no time lag in his appointment. He stated tha the State Advisory Committee had been constituted and a number of draft Concept Papers on Grid Code, Code for power trading, safety standards etc. had been posted on their website. He further informed that a number of meetings were held with all the utilities in this regard. One tariff petition and one Grid support petition were stated to be pending for which the orders were likely to be finalised by June, 2004. He mentioned that almost 300 applications were received for captive power plants with the provisions of Act coming into force in December, 2003.

4.2 Shri B.C. Jena, Member, OERC, informed that out of the 38 Regulations required to be formulated under the new Electricity Act, 2003, OERC had finalised 19 Regulations. He referred to the provisions of State Commission Fund under the Act and stated that it was not clear as to who will operate the Fund. He was of the view that the State Commission be empowered to operate the Fund and CAG had already referred the matter to MOP on the subject. He suggested that FOIR can take up this matter with Govt. of India. In this regard Shri Surinder Pal, Member APERC, informed that the Govt. of India & CAG were quite positive in their approach in this matter.

Shri B.C. Jena further discussed about the situation arising with one of the EOU (Export Oriented Unit) seeking permission of the Commission to shift its load from the State Licensee to some captive power plant. Intervening in the discussion, Hony. Chairman FOIR informed that the issue had been extensively deliberated by him with Secretary (Power), MOP, but there was no response. He suggested that Chief Minister of Orissa should take up the matter the Union Minister of Power and Prime Minister. He expressed that the situation has to be rectified otherwise the Govt. Licensees would be wiped off. Shri D.C. Sahoo, Chairman OERC proposed that the FOIR should take up the matter about captive generation with Govt. of India. Shri Arun Kumar, Chairman, RERC, also cited one situation in which one unit in Madhya Pradesh wanted to buy power from Rajasthan as the transmission company had spare capacity available. He mentioned that in such a situation Rajasthan would have gained but MP would have lost. He was of the view that the issue of captive generation need not be taken up by FOIR or the Commissions since the regulators have a mandate to strike balance among the various stakeholders. In reply to a question from Shri D. Roy Bardhan, Member MPERC, Hony. Chairman FOIR stated that MPERC should not permit supplies from two different sources in the same premises of any consumer.

4.3 Shri Pramod Deo, Member MERC, expressed that the regulators are required to implement the Govt. policy which is passed by the Parliament. Shri G.P. Rao, Hony. Chairman FOIR and Shri Arun Kumar, Chairman RERC were of the view that at best the FOIR can express itself informally to the Govt. of India on the policy issues. Shri R.K. Sharma, Member GERC stated that the state utilities can ensure reliability of power supply and with improvement they can bring back industries as their consumers. However Shri G.P. Rao, clarified that there is no level playing field between the state utilities and captive power plants considering the cross subsidy element.

Shri. S.K. Jena, Member OERC, referred to the definition of 'Captive Power Generation' in the Electricity Act, 2003 and expressed that captive power plants will take up new loads only without affecting the state utilities. In this context, Shri G.P. Rao shared the experience of APERC and informed that AP had initially encouraged captive generation. He informed that

captive generation was regulated by power available from Orissa and captive units were then allowed to operate as standby units only with the tariff being reduced by regulation. He expressed that provisions of Electricity Act, 2003 actually diverts the cross subsidy paying consumers since the captive power plant can make third party sales. He was of the view that there should not be any blanket cover and the Commissions or Govt. should have some discretionary powers in cases of second licensee in the same area or coming up of captive units.

4.4 Shri S.K.F. Kujur, Chairman JERC informed that a PIL was filed by Jharkhand SEB against the tariff order of the Commission but the High Court had rejected the PIL. He informed that the Commission is presently studying the improvement in tariff realisation/collection with transfer of distribution areas/pockets from JSEB to TISCO.

4.5 Shri Jayant Deo, Member MERC, mentioned that our industry is to compete with WTO regulations hence there will be a definite shift of industrial load to utilities supplying cheap power . He informed that levy of Transmission & Distribution loss charge allowed by the Commission had been upheld by the Govt. Shri P. Subrahmanyam, Chairman MERC informed the view of the consumers that the T&D loss charge be levied on the subsidised category and be paid back to the consumers after some time. He informed that there is good progress towards elimination of cross subsidy in the state of Maharashtra. Shri G. Subba Rao, Chairman GERC remarked that the load profile is important in determination of cross subsidy and a lesson can be learnt from the Maharashtra experience.

4.6 Shri K. S. Murthy, Member APERC, discussed about the tariff order of APERC as applicable from 01.04.2004. He informed that tariff for subsidised category of consumers has been brought down and the earlier incentives continued to apply. He stated that the average tariff was around Rs.3.27 per unit.

4.7 Shri S.S. Gupta, Chairman HPERC informed that 2% reduction in T&D loss had been achieved by unlocking the power which was blocked due to contract demand concept. He raised the issue of Regulatory Commission Fund and suggested that sub-group of FOIR with Members from IA & AS service be constituted for setting uniform guidelines in the matter. In this context, Shri S.K.F. Kujur, Chairman JERC informed that the State Govt. had sent the file for comments of the Commission and accordingly as per the comment of the Commission the Govt. had issued regulation with the Commission Fund under control of Commission.

4.8 The issue of KVAh tariff invoked active discussion by the Members. Shri Bhanu Bhushan, Member CERC, expressed that concept of KVAh tariff is good for power factor improvement but it is applicable for small consumers who are being charged single part tariff.

He mentioned that for application of KVAh tariff the standards for metering & testing procedures are required to be formulated. Shri K.S. Murthy, Member APERC informed that as per their feed back the technology for standardisation of such meters is not there and also KVAh tariff would not be revenue neutral. Shri Pramod Deo, Member MERC remarked that for power factor improvement in HT system measures can be taken by giving power factor incentives. He informed that in respect of LT consumers BSES has already implemented KVAh tariff in Mumbai. Shri D. Roy Bardhan, Member MPERC informed that with regard to meters for KVAh tariff there is a BIS standard and also there is a Meter Committee in BIS. He however mentioned that MPERC has not received any categorical reply from BIS with regard to the methodology and technology of metering to be applied in case of KVAh tariff.

4.9 The issue of License Fee was taken up for discussion as to whether it should be based on ARR (Annual Rate of Return) or a lumpsum amount. Shri B.C. Jena, Member OERC expressed that the License Fee can be decided by the State Govt. or it can be a lumpsum amount as is being practiced by CERC. Shri Divakar Dev, Chairman UERC mentioned that the State Govt. decides the application fee but on annual basis the License Fee is to be actually decided by the Commission.

5. A presentation was made by Indian Small Hydropower Developers Association on the issues related to development of Small Hydro Projects. Initially Shri Saxena, Director MNES (Govt. of India) discussed about the policy of Govt. of India with regard to development of Small Hydro Projects and he requested that the Regulators should consider giving a clear tariff signal for development of renewables including Small Hydro etc. He informed that the subsidy on Wind Power Development has been withdrawn and gradually the subsidy for Hydro Projects will be withdrawn by GOI as the sector becomes viable. Shri Bhanu Bhushan, Member CERC inquired about the basis for fixation of rate of Rs.2.25 per unit under avoided cost method. He also sought clarification on the issue of incentives and subsidy given by GOI and expressed that there is no Govt. regulation/guideline which is binding on the Regulators for development of renewables including small hydro. He was of the view that the concept of avoided cost is a practical and commercial solution for tariff fixation but the same varies from time to time. He suggested that the energy generated from small hydro projects could be taken as against UI (Unscheduled Interchange) price for overdrawals from the grid to make such projects viable. Shri S.K. Jena, Member OERC remarked that the problem with development of mini hydro projects is basically the fact that these projects are taken up by developers who are not able to execute the project in an efficient manner. The presentation was further supplemented by Prof. Arun Kumar, IIT Roorkee and Dr. Arun Gupta – one of the actual developers of small hydro project. Besides highlighting the problem in development of such projects, the presentation highlighted the fact that there are considerable variations in tariff structure in various states.

6. In the concluding session on 25th March, 2004, an interesting presentation was made by LANDIS & GYR on Metering problems and the available solutions. The presentation invoked active participation of the Members and various issues related to the state of the art technology, the cost effectiveness, effect of working environments in Indian conditions, the past experience of utilisation of the available Metering solutions world wide etc. were keenly deliberated.

7. In the morning session on 26th March 2004, a presentation was made by Shri K.S. Murthy, Member APERC on the Guidelines of Distribution Tariff as finalised by FOIR Committee vis-à-vis the National Tariff Policy of the Task Force constituted by Govt. of India. During the presentation the major issues related to Open Access, Cross Subsidy, Benefit & Loss Sharing mechanism for uncontrollable costs such as taxes, hydro thermal mix, etc. were extensively discussed by the Members. A view emerged that the uncontrollable costs for Licensee will have to be a pass through in the tariff but the same should be subjected to scrutiny of the Commissions. The Members felt that though it is obligatory for the Commissions to follow the Govt. Policy but it will not be possible for Commissions to adhere to the principles laid down in the Govt. Policy under discussion. The Forum was of the view that first of all the report of Task Force should be accepted by the Govt. of India and then there should be second stage of the consultation with the State Govts. before the Tariff Policy is formalised by the Govt. of India. The Members requested the CERC to take up the matter with Govt. of India for policy on Generation and Transmission Tariff.

Shri Arun Kumar, Chairman RERC remarked that the issue of surcharge is not at all a Tariff Policy issue. Hony. Chairman FOIR proposed that the document finalised by the FOIR Committee for Distribution Tariff be sent to Govt. of India explaining that the same has been debated in the FOIR Meeting. Shri K.N. Sinha, Member CERC was however of the view that sending of this document to Govt. will amount to giving the powers to Govt. for fixing up the parameters of Tariff as policy which has been opposed by CERC. Hony. Chairman FOIR expressed that laying down the Tariff Policy is the prerogative of the Govt. of India. Shri K.N. Sinha, Member CERC suggested that this document be published as the document of FOIR and all the State Commissions adopt the same even if there is conflict with the Govt. Policy. The Members finally decided that this document of FOIR laying down the broad principles/guidelines should be sent to the Govt. of India explaining to the Govt. the view point of FOIR about the broad principles which should be reflected in the Tariff Policy. It was also agreed that surcharge being an issue of open access is to be decided as regulation by the Commissions and the same is not a Tariff Policy issue.

8. Hon'ble Chief Minister of Uttaranchal and Hon'ble Minister of State for Power of Uttaranchal, also joined the FOIR Meeting at 1100 hrs. on 26th March, 2004. Shri G.P. Rao, Hony. Chairman, FOIR welcomed the Hon'ble Chief Minister and Hon'ble Minister of State for

Power of Uttaranchal. In his welcome address, Shri G.P. Rao highlighted the objectives and activities of FOIR. He cited the problems being encountered due to National Tariff Policy and provisions of Electricity Act, 2003 related to captive power generation and allowing two more licensees in the same distribution area. Shri Divakar Dev, Chairman UERC also welcome the Hon'ble Ministers and apprised them about the deliberations held in the FOIR Meeting. Hon'ble Chief Minister of Uttaranchal in his address welcomed all the Members/delegates to the State of Uttaranchal for the 15th General Body Meeting of the FOIR. He discussed about the development of hydro power in the State and stressed the need for creation of Environment Fund for protection of environment along with development. He was of the view that public was required to be made aware about the fact that Tariff setting is by Regulatory Commissions and not by Govt. He expressed that the policies need to be advertised so as to keep the public well informed. He appreciated the role being played by the Regulatory Commissions in the development of the power sector. Subsequently the presentation on Distribution Tariff by Shri K.S. Murthy, Member APERC, continued in the presence of the Hon'ble Ministers and the various issues were keenly discussed. Finally on behalf of FOIR Shri P. Subrahmanyam, Hony. Sr. Vice Chairman, FOIR, proposed the vote of thanks for Hon'ble Chief Minister and Hon'ble Minister of State for Power of Uttaranchal.

9. In the last session of the Meeting, a presentation was made by ALSTOM on Open Access and Power Trading Solutions. The presentation covered the areas of Regulatory requirements for the purpose, overview for Indian Open Transmission Access (OTA) and experience of transition in International markets.

10. Concluding the proceedings Shri G.P. Rao, Hony. Chairman FOIR presented the brief highlights of the discussions held during the two days of the Meeting and thanked Shri Divakar Dev, Chairman UERC and his officials for the excellent hospitality and arrangements for said FOIR Meeting. Hony. Chairman FOIR thanked all the Members of the FOIR for their support and contribution during his tenure. In view of the scheduled retirement of Shri G.P. Rao, Chairman APERC in the first week of April 2004, the Members unanimously requested Shri P. Subrahmanyam, Chairman MERC to be the Hony. Chairman FOIR till the elections of Governing Body to be held in the Annual General Body Meeting at New Delhi in the month of June 2004. The Forum placed on records the excellent contribution rendered by the outgoing/retiring Members – Shri G.P. Rao, Chairman APERC, Shri R.K. Sharma, Member GERC and Shri S.C. Dhingra, Member UPERC. As a token of appreciation for their services the Forum presented Momentos and Bouquets to the retiring Members and bid them a happy retired life.