

**MINUTES OF THE 17th GENERAL BODY MEETING OF
FORUM OF INDIAN REGULATORS (FOIR)**

Venue : Hotel Clarks Avadh, Lucknow
Date : 17th and 18th March 2005
List of Participants : At Annexure

Day 1 : 17TH MARCH 2005

The FOIR meeting was inaugurated by Shri Mulayam Singh Yadav, Hon'ble Chief Minister of Uttar Pradesh. Shri A.K. Basu, Chairperson, CERC and Chairman, FOIR welcomed the Chief Guest and the Gues of Honour, and in his welcome address highlighted the challenging role of the Regulatory Commissions in the electricity sector and some of the important steps taken by the Commissions, towards development of power sector. He underscored that while measures are being taken by the Government and the utilities towards improvement of the health of the sector, a lot still remains to be done on rural electrification and effective reduction of aggregate, technical and commercial (AT&C) losses, especially in States like Uttar Pradesh.

2. Shri Basu's welcome address was followed by the address by the Guest of Honour, Shri Amar Singh, Chairman, Uttar Pradesh Development Council, who stated that the State of Uttar Pradesh has played a pioneering role in undertaking reforms in the power sector. UP, he reiterated, was the first state to formulate an energy policy much before such policy envisaged at the Centre. Of late, several private players have evinced interest for investment in the state. He cited the examples of Reliance Power, Tata Power, Birla Group etc.

who have already come up with concrete proposals for setting up generation projects. Renovation and modernization (R&M) activities on the older plants like Obra are also being given top priority. Efforts are being made for augmenting the transmission system. Of late, stringent measures have been initiated to curb the menace of theft of electricity. Shri Amar Singh while highlighting the achievements of Uttar Pradesh, used the occasion to place on record, two proposals for consideration by the Competent Authority – the first proposal relating to a demand of additional fund from the Government of UP for the Uttar Pradesh power sector in line with the suggestion of UPERC Chairman. Shri Amar Singh also requested the Chairperson, CERC to reconsider the decision of the Commission to require the State Utilities to pay the income tax liability of the central generating companies like NTPC. He stated that such requirements have the potential of further denting the finances of the already financially battered utilities like Uttar Pradesh Power Corporation Ltd etc.

3. After the address by the Guest of Honour, the Chief Minister of Uttar Pradesh addressed the Forum. The Chief Minister welcomed all the regulators who have gathered from different parts of the country. He stated that the regulators were specialists and his State Government was committed to implement the suggestions given by the specialists. The Chief Minister added that the role of the Government was that of a facilitator, helping to remove the bottlenecks that may come in the way of the administrative executives in implementing the broad policy of the government. He however, expressed concern over the state of affairs of the State owned utilities and said that the State Electricity Board, Sugar Corporation and Road

Transport Corporation were the three organizations that have stymied the growth of the State. He informed that the State Government had of late written off debt worth Rs.30,000 Crore for UPSEB. While the State Government is doing its best, the utilities have to be more responsible. His State Government has given a free hand to the utilities to curb the theft of electricity. As regards the availability of fund, he stated that funds are an ongoing requirement for any reform effort and the Government does provide funds at regular intervals as per its priority but the fact remains that funds are seldom utilized properly. He informed that electricity is the top most priority out of 7 priorities of his Government. About rural electrification, he appreciated the observation of the Chairperson of CERC stating that a lot is yet to be done on this front. He however assured that his government is very serious about rural electrification. He also thanked the Forum of Indian Regulators for choosing Lucknow as the venue for its meeting. He requested the regulators to deliberate on the important issues facing the power sector and assured that his Government would accept the valuable suggestions arising out of the deliberations.

Shri Vijoy Kumar, Chairperson, UPERC extended vote of thanks to the Hon'ble Chief Minister and conveyed deep appreciation for sparing time out of his hectic schedule, particularly when Assembly Session is on.

4. After the address of the Hon'ble Chief Minister, deliberations in the meeting of the FOIR were initiated as per the agenda prepared for the purpose. At the outset minutes of the 16th General Body Meeting held on 2nd and 3rd December 2004 at Ranchi were confirmed.

Thereafter, the issue regarding acceptance of the final report of the TERI on compilation of Tariff Orders was taken up for decision. It was highlighted by the Chairperson, FOIR that as per the decision of the last FOIR meeting, TERI had once again circulated its draft report for comments to State Commissions and subsequently, based on the comments received from some State Commissions, it has finalized the report on compilation of tariff orders and submitted to the Secretariat of FOIR. As per the terms and consultancy out of the total consultancy fee of Rs.6 lakhs, the first instalment of Rs.3 lakhs had already been released. The proposal for decision as of now was to release the second and final instalment of Rs.3 lakhs to TERI as it has submitted the final report. Some Members felt that there was perhaps scope for more inputs into the report. Finally, it was decided to release the second and final instalment of Rs.3 lakhs to TERI for the report on compilation of tariff orders.

5. This was followed by two presentations on Solar Power Potential. The first one was made by Shri S.S. Murthy, Chairman, Karnataka Energy Management Services Pvt. Ltd and the second by Shri G.B. Patnaik, Principal Secretary (Non-Conventional Energy Sources) and Director (NEDA), Government of Uttar Pradesh. The views expressed through these presentations were that Solar Power Potential should be exploited gainfully as it is ideally suited for the concepts of distributed/decentralized generation. It was also impressed that it could be a proper substitute for supply of grid-power for the irrigation pumps. The irrigation pumps could be taken off the grid and the Solar Power could be used to cater to the demands of supply for irrigation pumps. This would go a long way in

mitigating the problems of losses of SEBs. Shri Patnaik highlighted that proper technology should be identified to harness the Solar Power Potential, which could substitute as well as complement the conventional source of energy. Certain incentives in the form of tax holidays, cess, etc. could also be explored.

6. The presentations were followed by discussion on the report of Sub-Group of FOIR on Methodology for computation of Surcharge and Additional Surcharge on Open Access. Karnataka Electricity Regulatory Commission (KEREC) informed that they had already issued a regulation based on computation of Surcharge on cost of supply basis and that they did not endorse the idea of avoided cost method as recommended by the Sub-Group. Jharkhand State Electricity Regulatory Commission (JSERC) also expressed reservation against the concept of arriving at Surcharge by deducting the avoided cost from 'average realization from consumer category'. All the other ERCs present endorsed the recommendation of the Sub-Group and accepted the "avoided cost" method. Shri A.K. Basu explained that while there are divergences in different methods of computation of surcharge and different State Commissions may have different perceptions, the idea of forming the Sub-Group was to arrive at consensus so that a uniform approach could be followed across the country on this crucial issue.

7. After the presentations, FOIR took up the guidelines of the Controller and Auditor General (C&AG) on performance audit of regulatory bodies for discussion. It was informed that the sub-Committee, which was formed in this regard in the last FOIR meeting,

held discussions on this issue. Efforts were made to have a meeting with the C&AG of India. However, the meeting could not materialise. A letter was sent from Shri P.K. Mehrotra, Chairman, MPERC addressed to the C&AG highlighting the views of the Forum of Regulators on the C&AG guidelines on Performance Audit of Regulatory Bodies. A copy of the letter was also circulated for information of all members. **The prevailing view was that another attempt should be made to have a meeting with the C&AG. Chairperson, MPERC and Governing Body Member of FOIR meeting may meet the C&AG, along with Shri A.K. Basu, Chairperson, CERC and explain the stand of FOIR in person.** It was also reiterated by the members that no regulatory commission should subject its orders for audit as the legal mandate of the C&AG was to audit the accounts only, and since the orders of the ERC were open to review and appeal as prescribed.

8. After the discussion on the C&AG guidelines, the Shri Pramod Deo, Chairman, Maharashtra Electricity Regulatory Commission (MERC) made a presentation on Rural Electrification Policy of MERC. Shri Deo highlighted the issues involved in rural electrification. Shri Pramod Deo also underscored that the approach on village electrification based on population, as in the draft policy on rural electrification, was not the correct approach and that it should start from the present level. He also underscored that the Sub-Group be constituted to suggest various models of rural electrification. **It was decided that the Sub-Group be constituted consisting of Shri R.D. Gupta, Member, Uttar Pradesh, Shri Pramod Deo, Chairman, Maharashtra, Shri P.C. Verma, Member, Jharkhand, Shri P.K.**

Mehrotra, Madhya Pradesh and Shri P.Ray, Member, West Bengal.

The group could meet in Delhi on 10th and 11th April 2005.

9. Dr. Deo's presentation was followed by discussion on the report of the sub-Group on sponsoring of Research and Training by FOIR. Minutes of the meeting of the sub-Group held in January 2005 had already been circulated. The Sub-Group had recommended four topics for research work. **The members discussed each of the four topics and decided to sponsor research on the following two topics:**

- (i) Estimation of loss in distribution system;
- (ii) Estimation of agriculture consumption

It was decided that the same sub-Group will recommend the terms of reference for commissioning studies on the two aforesaid subjects. It was also decided that Ms. Baljit Bains, Member, Punjab Electricity Regulatory Commission (PERC) be also co-opted as a Member in this Sub-Group.

10. Shri A.K. Basu, raised the issue of Time Of Day (TOD) tariff and sought opinion of the members as to whether a study could be instituted on this subject. It was opined that several States have already introduced TOD tariff and therefore, a separate study on the subject might not be necessary. TOD tariff is already in place in Maharashtra, Himachal Pradesh, Uttar Pradesh, Jharkhand, Tamilnadu and Madhya Pradesh. **It was decided that a letter may be written from Central Commission to all State Commissions seeking information/details in this regard.**

11. FOIR thereafter took for discussion, the status of finalisation of various regulations required under the Electricity Act, 2003. It was highlighted that there was a need for creating a database on the status of regulations issued by various State Commissions, as various agencies of the Government quite often required the Central Commission to apprise them of the status in this regard. Shri Divakar Dev, Chairman, Uttaranchal Electricity Regulatory Commission (UERC) handed over the detailed status in respect of his Commission. It was decided that status in respect of finalisation of various regulations under Electricity Act, 2003 would be sent by various SERCs to CERC.

Day 2 : 18TH MARCH 2005

12. Meeting started with a presentation on privatization of distribution by Shri V.K. Sood, former Chairman, Delhi Electricity Regulatory Commission. Shri Sood explained the process of privatization undertaken in Delhi and also highlighted the significant improvements made in the Delhi model over Orissa model. Members asked several questions seeking clarifications on various issues like policy directives issued by the Delhi Government, the loan extended by the Government to Delhi Transco, interest rates thereon, etc, to which Shri Sood replied.

13. Shri Sood's presentation was followed by the presentation by Shri S.D. Ukkali, Member, KERC on electricity metering and role of Regulators. In his presentation, Shri Ukkali drew attention of the

regulators to the Provision of Section 55 of the Electricity Act, 2003 which mandated that all supply after two years from the date of commencement of the Act had to be through proper meter. He highlighted that CEA had issued draft regulations on metering which, inter alia, provided for several time limits for the regulators. He suggested that a sub-committee may be constituted to coordinate with CEA before the regulations on metering are finalized. **It was decided that a Committee may be constituted with the following members:**

- (a) Shri Bhanu Bhushan, Member, CERC
- (b) Shri K.Venugopal, Member, DERC,
- (c) Shri R.D. Gupta, Member, UPERC.

The Committee could meet at the earliest and workout future course of action and also coordinate with CEA on the draft regulations prepared by the Authority.

14. Subsequently, there was a discussion on the issue of intra-State ABT. Two presentations were made, one by Shri Bhanu Bhushan, Member, CERC and the other by Shri P.C. Verma, Member, JSERC. Shri Bhanu Bhushan explained the concept of ABT as it was in operation for central generating stations and underscored the need for introducing the concept at the intra-State level at the earliest. In his presentation, Shri Verma also highlighted that the Power Sector was losing time every second by not implementing the concept of ABT at the State level. He felt that the same mechanism and the same rates as are applicable for the inter-State transactions may be made applicable for ABT at intra-State level as well. Shri Pramod Deo of MERC

however, felt that there are difficulties in following the same procedure and same rate for the intra-State level. **It was decided that a Sub-Committee with the following Members will go into details about introduction of ABT at the State level:**

- (i) Shri Bhanu Bhushan, Member, CERC
- (ii) Shri S.D. Ukkali, Member, KERC
- (iii) Shri P.C. Verma, Member, JSERC
- (iv) Shri R.D. Gupta, Member, UPERC
- (v) Shri K.Venugopal, Member, DERC
- (vi) Shri Manmohan, Member, GERC
- (vii) Shri Pramod Deo, Chairperson, MERC

It was decided that this Sub-Committee will make recommendations on implementation of Availability Based Tariff .

15. The discussion on ABT was followed by a presentation by UPERC highlighting the legal issues emerging from the Electricity Act, 2003. The presentation was followed by detailed discussion on some of the important issues raised. Shri A.K. Sachan, Secretary, CERC and Shri S.K. Chatterjee, Assistant Secretary, CERC who were closely associated with framing of the Electricity Act, 2003, clarified some of the issues raised by UPERC. On the specific issue of Military Engineering Services (MES) having been declared as a deemed licensee by the Government of India under the provisions of the Electricity Act, 2003, it was clarified that the fact that MES is a deemed licensee it is under obligation to comply with the terms and conditions as may be specified by the regulatory commissions for it. It was also pointed out that as per proviso to Section 16 of the Act, the regulatory

commissions are required to specify the general or specific conditions of licence for deemed licensees. In pursuance of this provision, the State Commissions may finalise the terms and conditions of licence of MES, the deemed licensee and require it to comply with such terms/conditions as per the requirement of the Act.

The last presentation was on performance benchmarks for the distribution utilities. It was informed that the study by Nexant is funded by USAID. A request was made to the Regulatory Commissions and Utilities to participate and help Nexant collect data and prepare a database on performance benchmarks for distribution utilities. The scope of the study is to collate the database of 8 representative States, which could subsequently be replicated for other States. Shri A.K. Basu, requested the representative of Nexant to write formally to CERC as the Secretariat for FOIR detailing the scope of their study and the specific assistance that it expects of the Regulatory Commissions.

16. The last item of discussion was the issue of development of Regulatory Information Management System (RIMS). Shri A.K. Sachan, Secretary, CERC informed that sometime back FOIR had sent a proposal to the World Bank seeking assistance for instituting the study for developing RIMS. The World Bank/Public Private Infrastructure Advisory Facility (PPIAF) representative had met him to inform that the quantum of assistance requested for by FOIR needs to be pruned and that the scope of work also could be redesigned and made more specific. He said that FOIR could consider institutionalizing the study for developing RIMS with PPIAF grant

and the grant amount could be limited to US\$75,000. He underscored that given the divergence of parameters followed by different Regulatory Commissions and keeping in view the need for uniformity of approach especially in the tariff orders, RIMS must be developed at the earliest. Shri V.K. Sood, former Chairman, DERC informed that DERC had already taken up a similar project which was expected to be finalized in the next 3-4 months. Shri Dhingra, former Member, UPERC informed that UP had also conducted a study in this regard and that the two studies [of DERC and UP] should be merged. After deliberations on the need for development of RIMS, **it was decided to go ahead with the PPIAF support for development of RIMS, which would help address the problems of incomplete information and asymmetry of information.**

17. After detailed discussion on specific topics, the floor was thrown open for experience sharing of the Regulators in different States.

- Shri S.S. Gupta, Chairperson, HPERC, informed that a separate fund as provided for in the Act had already been constituted for his Commission. Service Regulations had also been finalized. The latest tariff order passed by his Commission had certain salient features like provision of Rs.1.31 Crore towards institutionalization of Ombudsman etc., linkage of tariff to compliance of various directions of the State Commissions, Pre-paid metering etc.
- Shri S.S. Chakraborty, Chairperson, Tripura Electricity Regulatory Commission informed that despite the

problems of infrastructure, funding etc, he was able to compel the utility to file the petition by 10th March 2005.

- Shri P.C. Verma of JSERC felt that there should be some method to incorporate the provision of quality power supply in the tariff. He underscored that Section 57, which provides for performance standards is more punitive in nature, non-compliance of which attracts penalty for the utilities. His idea was to incorporate some incentives/disincentives for quality of power supply in the tariff computation etc.
- Shri Pramod Deo of MERC informed that his Commission has underscored in a recent order that the prudence capital expenditure of a project should be got vetted by the State Commissions in advance in order to avoid uncertainty on the issue. He also informed that on a proposal of MSEB giving two options for tackling the shortage - the first option of investment of Rs.500 Crore towards single phasing, and the second option of investment of Rs.1400 Crore for feeder segregation. MERC had decided to give 'go ahead' for the latter. Shri Deo also highlighted that unlike the provisions in the earlier Act, the new Electricity Act, 2003 did not have provision for allocation of shortages. This has been causing a lot of problem for the State Commissions.

Shri A.K. Basu informed the members that as per the provisions of the Electricity Act, 2003, the Central Government has constituted the Forum of Regulators (FOR), which consists of Chairpersons of all State Commissions. **It was decided that both Forum of Regulators and Forum of Indian Regulators would co-exist for the present.** He informed that as Chairperson, FOR, he would like to convene a meeting of the FOR sometime in the next month. It was also decided that now that FOR is in place, FOIR could meet once in six months (instead of once in three months). It was also decided that the annual contribution of Rs.1.5 lakhs for FOIR would continue for the present. Shri A.K. Basu also informed that the FOIR had already obtained the membership of India Habitat Centre and the members could avail of the facilities at IHC for which details could be obtained from the FOIR Secretariat.

Shri A.K. Sachan, Secretary, CERC informed that Asian Development Bank (ADB) had approached him seeking consent for holding a meeting of FOIR exclusively for discussion on introduction of intra-State ABT. ADB is agreeable to sponsor the said meeting of FOIR. Some international speakers on the issue will also be arranged by ADB. **It was unanimously agreed that such an exclusive meeting to discuss the issue of introduction of ABT is welcome and that Shri Sachan should coordinate with ADB/Ministry of Finance to finalise suitable date, time and venue for the meeting.**

It was decided that the next General Body Meeting of FOIR would be held in Delhi.

**LIST OF PARTICIPANTS IN THE 17th GENERAL BODY MEETING OF
FORUM OF INDIAN REGULATORS HELD ON 17-18 MARCH, 2005 AT LUCKNOW**

S.No.	Name	Designation
1.	Shri A.K. Basu	Chairman, CERC
2.	Shri S.K. Misra	Chairman, CSERC
3.	Col Raghbir Singh	Chairman, HERC
4.	Shri S.S. Gupta	Chairman, HPERC
5.	Shri K.B. Pillai	Chairman, J&KSERC
6.	Shri S.K.F. Kujur	Chairman, JSERC
7.	Prof. S.S. Murthy	Chairman, KEMS (Bangalore)
8.	Shri K.P. Pandey	Chairman, KERC
9.	Dr. Pramod Deo	Chairman, MERC
10.	Shri P.K. Mehrotra	Chairman, MPERC
11.	Shri V.K. Sood	Ex Chairman, DERC
12.	Shri S.S. Chakraborty	Chairman, TERC
13.	Shri Divakar Dev	Chairman, UERC
14.	Shri Vijoy Kumar	Chairman, UPERC
15.	Shri S.C. Dhingra	Ex Member, UPERC
16.	Shri Bhanu Bhushan	Member, CERC
17.	Shri K.N. Sinha	Member, CERC
18.	Shri A.H. Jung	Member, CERC
19.	Shri Sarat Chandra	Member, CSERC
20.	Shri R. Krishnamoorthy	Member, DERC
21.	Shri K. Venu Gopal	Member, DERC
22.	Shri Manmohan	Member, GERC
23.	Shri K.P. Gupta	Member, GERC
24.	Shri Tej Singh Tewatia	Member, HERC
25.	Smt. Shakuntala Sinha	Member, JSERC
26.	Shri P.C. Verma	Member, JSERC
27.	Shri S.D. Ukkali	Member, KERC
28.	Shri H.S. Subramanya	Member, KERC
29.	Shri C. Balakrishnan	Member, KSERC
30.	Shri A. Velayutham	Member, MERC
31.	Shri R. Natarajan	Member, MPERC
32.	Shri D Roy Bardhan	Member, MPERC
33.	Shri L.S. Deol	Member, PSERC
34.	Mrs. Baljit Bains	Member, PSERC
35.	Shri S. M. Dharendra	Member, RERC
36.	Shri B. Jeyaraman	Member, TNERC
37.	Shri S. Thangarathnam	Member, TNERC
38.	Shri P.N. Pathak	Member, UPERC
39.	Shri R.D. Gupta	Member, UPERC
40.	Shri A.K. Sachan	Secretary, CERC
41.	Shri P.S. Shah	Secretary, GERC
42.	Shri Ashwani Kumar	Secretary, HERC
43.	Shri A.K. Mehta	Secretary, JSERC
44.	Shri R. Balasubramanian	Secretary, TNERC

45.	Shri Anand Kumar	Secretary, UERC
46.	Shri S.K. Chatterjee	Asstt. Secretary, CERC
47.	Shri Anand Subbiah	NEXANT SARI ENERGY