ANDHRA PRADESH CENTRAL POWER DISTRIBUTION CORPORATION LIMITED
Dr. Y.S.R Vidyuth Soudha, Corporate office, ITI Road, Vijayawada-520 008
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From
The Chief General Manager/RAC,
Corporate office,
APCPDCL, Vijayawada

To
Sri Sai Sanjay Suraneni,
Advocate,
M/s. Bharti Airtel Limited,
Email: suraneni.sanjay@gmail.com
Ph No: +91-98661 82837

Lr.No.CGM/RAC/GM/PP&RAC/CP/VJA/F.No.76/D.No. 345 /24, Dt: 17.01.2024

Sir,

Sub: APCPDCL - Replies to further objections raised by Sri Sai Sanjay Suraneni, Advocate, M/s. Bharti Airtel Limited, on ARR & Tariff Proposals of Retail Supply Business for the FY 2024-25 in OP No. 72 of 2023 - Reg.

Ref: Party's representation, dt.08.01.2024.

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Referring to the further objections raised by Sri Sai Sanjay Suraneni, Advocate, M/s. Bharti Airtel Limited, on ARR & Tariff Proposals of Retail Supply Business for the FY 2024-25 in OP No. 72 of 2023, the reply is furnished as hereunder.

Objections & Replies:

1. The present objections, suggestions and submissions are being filed on behalf of Bharti Airtel Limited in reply to the Public Notice issued by Andhra Pradesh Electricity Regulatory Commission dated 10.12.2023.

2. That this Hon'ble Commission has issued the Public Notice dated 10.12.2023 ('Public Notice') inviting objections/submissions on the Aggregate Revenue Requirement ("ARR"), Tariff and Cross Subsidy ("CSS") Proposals for Retail Supply Business for Financial Year 2024-25 proposed by APSPDCL in O.P. No. 71 of 2023, APCPDCL in O.P. No. 72 of 2023 and APEPDCL in O.P. No. 73 of 2023 submitted to this Hon'ble Commission for consideration.

3. It is submitted that our company Bharti Airtel Ltd. ('Airtel') is a global communications solutions provider with over 500 Mn customers in 17 countries across South Asia and Africa. Airtel is one of the largest players in the Indian Telecom Sector with diversified operations in Telecom Infrastructure, Equipment, Mobile Virtual Network Operators (MNVO), White Space Spectrum, 5G, Telephone Service Providers and Broadband. Airtel ranks amongst the top three mobile operators globally and its network covers over two billion people. Airtel is India's largest integrated communications solutions provider. Airtel's retail portfolio includes high speed 4G/4.5G mobile broadband, Airtel Xstream Fiber that promises speeds up to 1 Gbps with convergence across linear and on-demand entertainment, streaming services spanning music and video, digital payments and financial services. For enterprise customers, Airtel offers a gamut of solutions that includes secure

connectivity, cloud and data center services, cyber security, IoT, Ad Tech and CPaaS (Airtel IQ).

4. It is submitted that the Government of India has granted infrastructure status to the telecom tower provided industry in the year 2012 to boost the development of telecom infrastructure in India. It is submitted that over the last seven years, the Indian Telecom Tower industry has grown significantly by 65%. The number of mobile towers increased from 400,000 in 2014 to 660,000 in 2021. Similarly, the number of Mobile Base Transceiver Stations have grown rapidly by 187% and increased from 800,000 in 2014 to 2.3 mn in 2021. Rural tele-density jumps from 44% in March 2014 to 58% in October 2022. The telecom sector continues to play a leading role in successful implementation of various Government programmes like Digital India, Make in India, and development of Smart Cities. These programs and initiatives present plethora of opportunities for the telecom sector especially for the telecom infrastructure providers as the telecommunication infrastructure is the bedrock for achieving the vision of Digital India.

5. It is submitted that the Information Technology, Electronics and Communications (Promotions) Department, Government of Andhra Pradesh vide G.O.MS.No.6 dated 16.07.2021 has notified the "Andhra Pradesh IT Policy 2021-2024" ("AP IT Policy") addressing the current needs of the industry. As per the AP IT Policy 2021-2024, the Telecommunications service provider has been defined as:

> *"Telecommunications service provider includes basic telecom service providers (fixed), cellular (mobile) companies, telecom infrastructure companies, Internet Service Providers (ISP) and any other value-added services licensed by Ministry of Electronics and Information Technology (MeitY), Government of India."*

It is further submitted that the AP IT Policy 2021-2024 has expressly included 'Telecom' within the ambit of IT Industry/IT Projects. Also, that the AP IT Policy 2021-2024 has expressly mandated under Paragraph 8 (vi) that all IT Companies operating in Andhra Pradesh shall be eligible for industrial tariff towards their power consumption. A copy of the AP IT Policy 2021-2024 is filed herewith as Annexure No.1.

6. It is pertinent to submit that the Telecom Sector is a foundational pillar and acts as a backbone to the IT Industry. This is because fast internet and leased line connections provided by the Telecom Sector is foundational for smooth functioning and growth of the IT Industry. The AP IT Policy 2021-24 as a measure for development of start-up ecosystem also highlights the importance of 5G cellular networks which is directly dependant on the telecommunication towers.

7. It is submitted that our company and several others in the Telecom Sector are incurring huge capital expenditure and operational costs in establishing 5G Cellular network. High costs are being incurred by Airtel to cater to the demand of 5G Cellular networks not only to the IT Industry but also to retail customers in the State of Andhra Pradesh. One of the main and significant costs is the electricity tariff charged to the telecom towers. Currently, the Telcom towers are charged under the LT Ii (B) Non-Domestic/Commercial category of tariff. Under the current tariff

applicability, the operational costs of telecom towers works out to a substantial amount which makes it difficult for the telecom companies to sustain such infrastructure.

8. It is submitted that the Telecom Regulatory Authority of India in its Report titled, "Recommendations on Use of Street Furniture for Small Cell and Aerial Fiber Deployment" dated 29.11.2022, after careful examination of the functioning of the telecom sector and after having considered the vital role being played by the telecommunication and broadband service sector in the economic growth of connected areas and the charges currently raised for providing electricity to telecom sites are very high, as such, has also recommended that it is justified that telecom sites should be provided electricity connection at industrial/utility tariffs. Copy of the aforesaid Report dated 29.11.2022 is filed as Annexure No.2.

9. It is submitted that Airtel currently has 9380 telecom towers in the State of Andhra Pradesh and the electricity consumption details for the year 2022-23 are filed herewith as Annexure No.2A.

10. It is submitted that additionally, enhanced fiberization is a must for 5G services and to achieve the targets fixed by the National Broadband Mission (NBM) of 50 lakh km fiberization, 70 per cent tower fiberization and 50 megabits per second speed of broadband. This would entail heavy capital expenditure, thus, raising the cost of telecom services, leading to a greater digital divide. According to the industry estimates, almost 30 per cent of the operational expense for the telecom towers goes into electricity tariffs, which works out to be a substantial amount, thus, making it crucial for this Hon'ble Commission to categorise the telecom companies under the industrial category, thereby, lowering the burden on the telecom companies which would indirectly lead to facilitating affordability of telecom services to the end customer.

11. It is pertinent to submit that the AP IT Policy 2021-24 has expressly mandated under Paragraph 8 (vi) that all IT Companies in Andhra Pradesh shall be eligible for industrial tariff towards their power consumption. As stated above, since the AP IT Policy 2021-2024 includes the Telecom Sector within the IT Industry, hence, in light of the same, industrial tariff should be applicable to the Telecom Sector.

Reply (1 to 11) : As per the Clause No.1.(xiv) IT Industry/ IT Projects refers to IT product development firms, IT services, IT component of back office operations such as accounts and financial services, IT support centers, website 3 services, business process outsourcing, knowledge process outsourcing, data processing, call centers, engineering and design elements of IT infrastructure, medical transcription, legal database processing, digital content development, digital technology component of media and entertainment industry, offsite IT support, geographic information services, IT/ IT Enabled Services components of Human Resources (HR) services, insurance claim processing, payroll processing, revenue accounting, Animation Visual effects, Gaming, Comics (AVGC), datacenters, Social, Mobile, Analytics, and Cloud (SMAC), technology aspects of e-Commerce, digital content creation, digital management and technology, natural language computing, telecom, Internet of Things (IoT) and emerging technologies such as Cyber Security, Blockchain, Artificial Intelligence,

Machine Learning, etc. This does not include companies engaged in manufacturing of IT/ telecom hardware.

Clause 1.(xxii) Telecommunications service provider includes basic telecom service providers (fixed), cellular (mobile) companies, telecom infrastructure companies, Internet Service Providers (ISP) and any other value-added services licensed by Ministry of Electronics and Information Technology(MeitY), Government of India.

As per Clause 8 (vi) of AP IT Policy, all IT companies operating in Andhra Pradesh shall be eligible for industrial tariff towards their power consumption.

As seen from the above, the Industrial tariff is applicable only for IT companies and not Telecom Service providers as per the AP IT Policy.

12. It is submitted that the Government of Maharashtra, as part of their IT/ITES policy notified the applicability of industrial tariff to the telecommunication towers instead of commercial tariff. It is submitted that the Maharashtra State Electricity Regulatory Commission (MSERC) after taking into consideration the IT/ITeS policy of the Government of Maharashtra specifically categorised Telecommunication Towers in the Industry Tariff vide its order dated 30.03.2020 in Case No. 322 of 2019. In furtherance to the same the Maharashtra State Electricity Distribution Company Ltd. vide Circular Order No. 323 dated 03.04.2020 has revised the electricity tariff for telecommunication towers by placing them in the Industrial Category. The relevant portion of the MSERC order dated 30.03.2020 in Case No. 322 of 2019 on Page 684 and 685 of the said Order are extracted below:

"HIGH TENSION (HT) TARIFF

HT I: HT – Industry HT I (A): Industry – General Applicability:

This tariff category is applicable for electricity for Industrial use at High Voltage for purposes of manufacturing and processing, including electricity used within such premises for general lighting, heating/cooling, etc.

It is also applicable for use of electricity / power supply for Administrative Offices / Canteen, Recreation Hall / Sports Club or facilities / Health Club or facilities/ Gymnasium / Swimming Pool exclusively meant for employees of the industry; lifts, water pumps, fire-fighting pumps and equipment, street and common area lighting; Research and Development units, etc. -

Provided that all such facilities are situated within the same industrial premises and supplied power from the same point of supply.

This tariff category shall be applicable for use of electricity / power supply by an Information Technology (IT) or IT-enabled Services (ITeS) Unit as defined in the applicable IT/ITeS Policy of Government of Maharashtra.

It shall also be applicable for use of electricity / power supply for (but not limited to) the following purposes:

1. Flour Mills, Dal Mills, Rice Mills, Poha Mills, Masala Mills, Saw Mills;

2. Ice Factories, Ice-cream manufacturing units, Milk Processing / Chilling Plants (Dairy);
3. Engineering Workshops, Engineering Goods manufacturing units; Printing Presses; Transformer Repair Workshops; Tyre Remoulding/Rethreading units, and Vulcanizing units;
4. Mining, Quarrying and Stone Crushing units;
5. Garment Manufacturing units
6. LPG/CNG bottling plants, etc.;
7. Sewage Treatment Plant/ Common Effluent Treatment Plant for industries, and not covered under the HT – PWW category
8. Start-up power for Generating Plants, i.e., the power required for trial run of a Power Plant during commissioning of the Unit and its Auxiliaries, and for its start-up after planned or forced outage (but not for construction);
9. Brick Kiln (Bhatti);
10. Biotechnology Industries covered under the Biotechnology Policy of Government of Maharashtra;
11. Cold Storages not covered under HT – Agriculture (Others);
12. Food (including Seafood and meat) Processing units.
13. Stand-alone Research and Development units.
14. Seed manufacturing.
15. Dedicated Water Supply Schemes to Power Plants
16. Auxiliary Power Supply to EHV/Distribution Substations (but not for construction)
17. Telecommunications Towers "

A copy of the IT/ITES policy of the Government of Maharashtra is filed herewith as Annexure No.3. A copy of the Maharashtra State Electricity Regulatory Commission's order dated 30.03.2020 in Case No. 322 of 2019 is filed herewith as Annexure No.4. A copy of the Circular Order No. 323 dated 03.04.2020 issued by Maharashtra State Electricity Distribution Company Ltd. is filed herewith as Annexure No.5.

13. It is submitted that the National Tariff Policy, 2016 in clause 8.3 lays down principles for "Tariff Design: Linkage of tariffs to cost of services". One of the principles specifically states that the tariff should progressively reflect the cost of supply of electricity and suggests that appropriate commissions should take steps to ensure that the tariffs are within 20% of the average cost of supply of electricity. However, the present tariff in the State of Andhra Pradesh in the commercial category is far more than the average cost of supply, especially for the telecom industry. It is pertinent to reiterate that the telecom infrastructure companies are incurring huge capital expenditure and operational costs to smoothly transition the 5G technology as per the Prime Minister's Gatishakthi Programmee. The high commercial electricity tariffs currently being charged on the telecommunication towers are only adding to the existing difficulties such as low return on investments and poor revenue realisation in rural areas. Hence, it is the need of the hour for this Hon'ble Commission to review the tariff under the IT Policy and categorise telecommunication towers under i.e. LT III (A) tariff category i.e. the Industry (General) Tariff Category. A copy of the National Tariff Policy, 2016 is filed herewith as Annexure No.6.

14. It is submitted that Ministry of Power (MOP) through its Notification dated 23.05.2023 ("Notification") permitted consumers with load more than 100Kw for Green Energy Open Access. The relevant portion of the Notification is extracted below:

"Provided that only consumers who have contracted demand or sanctioned load of Hundred kW or more, either through single connection or through multiple connections aggregating Hundred kW or more located in same electricity division of a distribution licensee, shall be eligible to take power through Green Energy Open Access and there shall be no limit of supply of power for the captive consumers taking power under Green Energy Open Access:"

15. In terms of the aforesaid Notification, the telecommunication towers qualify the condition & are eligible for Green Energy Open Access. In the circumstances, we pray that the Hon'ble Commission clarifies that various charges like intra state transmission charges & loss, wheeling charges & loss, metering, scheduling & forecasting are applicable for LT consumers for Green Energy Open Access. Copy of the Notification dated 23.05.2023 issued by Ministry of Power is filed herewith as Annexure P7.

16. It is also pertinent to submit here that the Notification also permitted the consumers with load less than 100Kw for Green Energy Open Access basing upon Special Energy Meter for all High Tension Consumers and ToD meter for all eligible Low Tension Consumers. In fact, the Hon'ble Maharashtra Electricity Regulatory Commission has already allowed Green Energy Open Access to smaller LT load consumers with ToD metering.

Reply (14 to 16) : The permission for Green Energy Open Access with load less than 100 KW is not related to the current ARR filings.

17. It is submitted that Hon'ble Himachal Pradesh Electricity Regulatory Commission vide its 'Fourth Annual Performance Review Order for 4th MYT Control Period (FY20-FY24) & Determination of Tariff for FY24 & True-up of FY22 of 4th MYT Control Period for Himachal Pradesh State Electricity Board (HPSEBL) dated 31.03.2023' approved inclusion of Tele-communication Towers IT and IT enabled services to be included within the Industry (General) Tariff Category. A copy of relevant extract from the aforesaid Review Order is filed herewith as Annexure No.8.

18. It is submitted that this Hon'ble Commission has ample power under Sections 61, 62 and 86 of the Electricity Act, 2003 to revise the tariff for telecommunication towers from Commercial Tariff Category to Industrial Tariff Category.

19. It is submitted that the above stated policies of the Government of Andhra Pradesh and the Government of India is to enable growth in the IT Industry, not only to attract investments but also in turn to generate employment and grow the infrastructure. Hence, in light of the same it is requested that this Hon'ble Commission may be pleased to consider the present request for change in tariff from Commercial Tariff Category to Industrial Tariff Category.

20. It is submitted that if the Telecommunication towers are not placed in the Industrial Tariff Category it will cause undue loss to the telecom sector and will hinder the development and progress of the telecom sector.

Reply (12, 13 & 17 to 20) : In the Tariff Order for FY 2023-24, responding to the similar request by the Telecom Service providers, the Honourable APERC has observed as follows.

As per the Judgments of Honourable Supreme Court, the policies of the State / Central Govts., are not bindings on the SERCs in tariff determination. Therefore, the IT policy of GoAP is not binding on the Commission. The recommendation of FOIR, TRAI are suggestive only. Therefore they are not binding on the Commission.

Further, all service providers collect tariffs for the service provided and hence come under Commercial category only.

21. It is submitted that each of the objections/suggestions/submission is without prejudice to each other. Airtel craves leave of this Hon'ble Commission to make additional submissions at the time of public hearing.

22. It is submitted that Airtel is filing these objections/suggestions/submissions without prejudice to its rights and contentions under law.

In view of the above, it is humbly prayed that this Hon'ble Commission may be pleased to revise the tariff towards telecommunication towers and categorise the telecommunication towers under the. LT III (A) tariff category i.e., the Industry (General) Tariff Category under the AP IT Policy 2021-2024, as the same would facilitate affordability of telecom services to the general public and bridge the digital divide.

Further, it is to inform that, the Honorable APERC is conducting public hearings on ARR filings for FY 2024-25 & Distribution Business for 5th control period through video conference from Conference Hall, APEPDCL, Visakapatnam. The hearings will be held in respect of all the three DISCOMs on 29-01-2024, 30-01-2024 and 31-01-2024 from 10.30 AM to 1.00 PM and from 2.00 PM to 4.30 PM. APSPDCL has facilitated Video Conference at all offices of Superintending Engineer / Operation at district headquarters and at all remaining offices of Executive Engineer / Operation. Specification of the date and time for objector is under the purview of Honourable Commission.

Yours faithfully

Chief General Manager /RAC
APCPDCL::Vijayawada

Copy submitted to
The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad.