

Before the Delhi Electricity Regulatory Commission

Misc. matter No. 2/2003_____

In the petition No.8/2003, 9/2003 and 10/2003_____

CORAM:

Sh. V.K. Sood, Chairman

In the matter of: Directions for Street Lighting in the areas of Municipal Corporation of Delhi (MCD) given in the Commission's orders dated 26.06.2003 given in the tariff petition No.8/2003 filed by BSES Yamuna Power Ltd. 9/2003 filed by the BSES Rajdhani Power Ltd. and 10/2003 filed by North Delhi Power Ltd.

Present:

1. **Sh. Rakesh Mehta - Commissioner, MCD**
2. **Sh. A.K. Sardana, CEO along with Sh. V.C. Mathur, Sh. R.K. Narayan, Sh. Sumit Sachdev of NDPL**
3. **Sh. Rakesh Aggarwal, CEO, along with Sh. R.C. Natarajan & Sh. Naveen Sarpal, from BYPL & BRPL**

ORDER

(Date of hearing 5.3.2004)

Pursuant to the earlier order dated 4.9.2003 of the Commission in this matter, the matter was taken up again on 5.3.2004.

Before deliberating on the issue it is necessary to mention the brief background of the matter so as to appreciate the issues involved in the case in their right perspective. Section 42 of the Delhi Municipal Act states that public lighting is one of the responsibilities of the MCD and historically, the MCD had entrusted this function to the erstwhile Delhi Electricity Supply Undertaking (DESU) which functioned as a Wing of the MCD. The DESU was discharging the function of erection, operation and maintenance of public lighting falling in the areas which were under the jurisdiction of the MCD. After DESU was wound-up and the Delhi Vidyut Board (DVB) came into being in 1997, the new organization, i.e. the DVB took over the work of public lighting on behalf of the MCD. While the MCD was to pay the DESU/DVB the maintenance and energy charge for the public lamps, it was the

latter's duty to levy and collect the Electricity Duty on behalf of the former. The fact of the matter was that neither organization made any payment to the other and the Maintenance and energy charge was informally swapped with Electricity Duty.

2. The above arrangement came into focus at the time of determination of Retail Supply Tariff Order for the DVB, delivered on 23.05.2001, wherein the Commission had raised the maintenance charges of public lights from Rs.50 per point per month to Rs.60 per point per month. The Commission had infact estimated that the fixed charge works out to Rs. 73 per point per month, but keeping in mind the contention of the MCD that only 50% of the light points were functional, the maintenance charge was determined at Rs.60 per point per month. The energy charge that was payable by the MCD was determined as Rs.3.60 per unit.

3. The issue of maintenance charge for public lighting was again taken up during determination of tariff for the years 2002-03 and 2003-04, the Orders of which were issued on 26.6.2003. Since till finalisation of the said Tariff Orders, the scope of works of public lighting remained inconclusive, the Commission had directed that the maintenance charges be retained at Rs.60 per point per month for a period of two months only. The Commission further directed that in the meantime, the MCD should jointly work out a clear-cut proposal with the DISCOMS, giving the details of the scope of work and maintenance charges and submit it to the Commission within the next two months. The Commission decided to take this interim measure since the Commission had observed that the rates for maintenance charges could not be arrived in the absence of the scope of works which were not defined by the MCD. The Commission, however, takes cognizance of the letters written by the MCD on 15.2.2003 and again 20.5.2003 wherein the MCD had primarily made the following submissions:-

- Costing of spares may be done in a transparent manner;

- Shifting of services during road widening, as well as, erection of the new streetlights at the time of construction of new roads be taken into account for fixing maintenance charges;
- The fact that the large number of streetlights, sometimes to the extent of 40% were found to be not working may be taken into account while calculating energy charges;
- Have greater transparency in the collection of Electricity Duty;
- The existing maintenance charge of Rs. 60 per point per month was already on the higher side
- The proposal of the DISCOMS to raise the maintenance charges to Rs. 500 per point per month from the existing figure of Rs. 60 cannot be accepted

4. The fact that the MCD was undecided on the scope of works at the time when the last tariff Order was announced on 26.06.2003 can be gauged from the fact that in a meeting chaired by the Municipal Commissioner on 25.6.2003, which was attended by the DISCOMS also, it was decided by the MCD that the maintenance of streetlights would be taken over by the civic body and that the MCD would execute the same either through a contractor or departmentally. However, the installation and maintenance of semi/high mast lights would be carried out by the Electrical Department of the MCD and that all new works relating to the streetlights, shifting of poles, feeder pillars, HT/LT lines, transformers, etc. would be undertaken by the DISCOMS.

5. The Commission, in the meantime, had received a number of complaints on the poor conditions prevailing in respect of public lighting in Delhi. Consequently, in order to settle the matter, the Commission conducted a hearing on this subject on 3.9.2003 which was attended by the Government, the MCD and also the DISCOMS. The Commission directed that the MCD should forward its proposal giving the scope of works, specifications and other performance requirements to the DISCOMS by 5.9.2003 under intimation to the Commission. The DISCOMS, thereafter, were to submit their response within seven days from the receipt of proposal from the MCD. The

DISCOMS were also directed to take up the maintenance work of public lighting on a priority basis pending determination of maintenance costs by the Commission which would be effective from the date of hearing, i.e. 3.9.2003. The DISCOMS were also directed to initiate action so as to provide meters for measurement of energy consumption in public lighting including high mast lights.

6. In pursuance to the directions of the Commission, the MCD sent a communication to the DISCOMS on 5.09.2003 outlining what they had considered to the scope of works. It was the contention of the DISCOMS that the MCD failed to define the scope of works properly but, in any case submitted to the Commission, their proposals wherein the maintenance cost suggested by NDPL was Rs. 83.53 per point per month. The corresponding figures for BYPL and BRPL were Rs. 156.65 and Rs. 75.40, respectively. The DISCOMS, however, had added that the streetlights were in dilapidated condition and needed major revamping. The underground cable system was non-functional on most roads due to digging and the wires had been replaced by overhead catenary wires which adversely affected the performance of the street lights. The cost of replacement and spares, other than lamps and other ancillary equipment should also be covered in the Commission's Order which had not been explicitly included earlier. On the issue of metering the supplies, the DISCOMS had submitted whether the miscellaneous charges were to be levied or not. The DISCOMS further submitted that a joint survey may be conducted for all streetlight points and that non-functional points may be rectified within a time bound schedule. A vast number of lighting masts have not been handed over to the DISCOMS officially.

7. The MCD had responded to the proposal of the DISCOMS vide their letter of 30.9.2003 wherein amongst other things, they had refuted the contention of the DISCOMS that the equipment for public lighting was in poor shape and they had also submitted before the Commission that the proposed charges of the DISCOMS were unjustified and irrational. The MCD expressed the opinion that they would like to

continue with the existing rate of Rs.60 per point per month. The MCD, further submitted that the survey conducted by the PCRs in Delhi indicated that as many as 42% of the streetlights were found to be non-functional between the period 16.8.2003 to 31.8.2003 in the areas falling under the jurisdiction of NDPL. The corresponding figures for BYPL and BRPL were 32% each, respectively. It was thus the contention of the MCD that a deduction of no less than 40% should be made out of the claims of the DISCOMS for maintenance and energy consumption charges for deficient services. The MCD were also not agreeable to payment of security deposit for street lighting on the ground that the MCD's dues on account of electricity tax was not being paid by the DISCOMS. The MCD also disputed the contention of the DISCOMS that high mast lights have not been handed over to the DISCOMS.

8. The Commission observes that while both the MCD and the DISCOMS were expressing their respective views on the finer issues concerning public lighting, the core issue ie. of the scope of works was yet to be firmed up to the satisfaction of both the parties. To freeze it, Commission in a communication sent to the MCD on 15.10.2003, identified the scope of works as maintenance of existing streetlights, addition of new streetlights, installing of high mast lights, transformers, etc and requested the MCD to confirm the same. This was confirmed by the MCD vide their letter of 24.10.2003.

9. After the confirmation of the scope of works, a technical discussion was held in the Commission on 1.11.2003 which was attended by the CEOs of the DISCOMS. DISCOMS were informed that since there was wide variation in the maintenance cost arrived at by the three DISCOMS, some uniform parameters had to be devised which were also discussed. The DISCOMS had reiterated their earlier views that there were major defects in the fitting and fixtures of the public lighting which was likely to cause problems. The DISCOMS also raised the issue of ownership of the streetlights and had also submitted that since the maintenance of the streetlights was not the core job of the DISCOMS, the DISCOMS should be given some monetary incentive

for this assignment. The DISCOMS were also of the view that any survey done for determining performance standards should be done jointly and that a unilateral inspection by the PCRs should not be used to determine benchmarks.

10. Another meeting was also held in the Commission on 28.11.2003 to discuss the methodology for fixing performance standard index, keeping in view the dilapidated condition of the streetlights and also for fixing the modalities for joint survey to assess the functionality of streetlights. During this meeting it was decided that the DISCOMS and the MCD would undertake a joint survey and that it would be completed by 20.12.2003. The report of the joint survey was delayed considerably and it was received in the Commission from the MCD only on 10.02.2004 which revealed that the performance of public lighting was not as pessimistic as was appearing in the PCR reports.

11. Taking a holistic view in the matter, the Commission feels that whatever mechanism is devised to fix maintenance charges for public lighting, the methodology adopted should have the potential to trigger performance. The best way doing this would be to have an in-built system of providing incentives in case of good performance and likewise, impose penalties in case the performance is lower than expectations. The rates arrived at, however have to be equitable, reasonable and just, both from the point of the civic agency and also the Discom. Needless to say, the procedure adopted should also be simple so as to ensure practicability and further, it should be based on sound commercial principles. Practices of the past like swapping of electricity duty with energy charges as existing at the time of DESU/DVB should be scrupulously avoided. From the consumers point of view, the benefits of privatization should be palpable to the extent that there is a paradigm shift in the performance of public lighting. Having examined the submissions made by the MCD and the DISCOMS, the reports of the joint inspections etc., the Commission heard the parties on 5.03.2004 to get their feedback on the broad principles formulated by the Commission. Keeping in view all the issues involved in the matter, the Commission directs the following:

- In order to make an assessment of the number of points which are functioning, the MCD and the DISCOM concerned may have a joint inspection which could be carried out once in a month. The inspection would be done on a sample basis and the size of a sample would be two zones, which would be picked up randomly. The zones selected would be from different circles. Light points found defective in one inspection shall be inspected again during the next inspection alongwith the fresh zones which would be monitored. No zone shall be monitored twice consecutively.
- The MCD and the DISCOMS may also involve a third party for the inspections. The choice of the third party would be mutually decided between the MCD and the DISCOMS.
- The dates for inspection would be fixed well in advance and the inspection should be completed by the third week of the month concerned.
- The Commission would like to evolve a system whereby good performance is rewarded. Similarly, poor performance also needs to be discouraged and therefore, the Commission directs that full maintenance charges may be paid for 90% performance. Performance higher than 90% shall earn an incentive for the DISCOMS according to the following table :

Performance level achieved	Incentive	Example
Between 90-95%	1% for each percentage in over achievement from target of 90%	Actual Performance 93% Incentive 93-90 = 3%
Between 95-97%	1.5% for each percentage in over achievement from target of 95%	Actual Performance 97% Incentive= 5 + 3 = 8%
Above 97%	2.0% for each percentage in over achievement from target of 97%	Actual Performance 99% Incentive = 8 + 4 = 12%

Performance less than 90% shall attract disincentive for the DISCOMS according to the following table :

Performance level achieved	Disincentive	Example
Between 80-90%	1% for each percentage in shortfall to achieve target of 90%	Actual Performance 83% Disincentive $90-83 = 7\%$
Between 70-80%	1.5% for each percentage in shortfall to achieve target of 80%	Actual Performance 77% Disincentive $= 10 + 4.5 = 14.5\%$
Below 70%	2% for each percentage in shortfall to achieve target of 70%	Actual Performance 60% Disincentive $= 25 + 20 = 45\%$

- The incentive or disincentive would not be a pass through in the calculation of the Annual Revenue Requirement and the payment would be made by the 15th day of the following month.
- The maintenance charge will be Rs. 73 per point per month. The maintenance charge has been arrived at on the basis of the technical discussions held in the Commission on 1.11.2003. Maintenance charges would include replacement of incandescent bulbs of 40 to 100 Watts and other general conditions, as specified in the Order of the Commission issued on 26.06.2003, would apply.
- Energy charges would be calculated on the basis of actual performance. The tariff fixed for energy charge is Rs. 3.85 per unit as per the Tariff Order issued on 26.06.2003. The quantum of energy consumed by each point per month would be calculated on normative basis in accordance with the existing practice.

- Energy charge in respect of lamps identified in the previous inspection found to be malfunctioning when inspected in the subsequent inspection, would not be payable by the MCD.
- An allowance of 0.5% of energy consumed per month would be given for testing/ maintenance of streetlights during the day time.
- The rates fixed for maintenance charge and also for energy charge would be with effect from 4.09.2003 till such time the new tariff orders for 2004-05 become applicable.
- For the period beginning from the 4th of September 2003 till the end of February 2004, payment of maintenance and energy charge would be determined on the basis of the average figures arrived at in the various joint inspections that have been carried out in the months of December 2003/January 2004. These inspections have been carried out in different zones at different periods of time and in the absence of any other figures for this period, the Commission is of the view that this would be the best approximation.
- The MCD in association with the DISCOMS would set up a committee to ensure transparency in purchase of spares.
- The payment of Electricity Duty would be on the basis of the pattern of consumption for the corresponding month in the previous year. The MCD and the DISCOMS would reconcile the actual consumption figures for each quarter by the 15th day of the following month.
- All public lights would be formally handed over to the DISCOMS within 15 days of this Order.
- The rates for public lighting, determined in this Order, would also be valid for public lights belonging to the PWD and the DDA.

(V. K. SOOD)
Chairman

Dated: