Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17

Suo-Motu Petition No. 42 of 2012

Tariff Revision

(Suo-Motu action on the representations/comments received from various Stakeholders/Consumers)

Coram:

Sh. P. D. Sudhakar, Chairman, Sh. Shyam Wadhera, Member & Sh. J. P. Singh, Member

ORDER
Dated : 22.10.2012

1. The issue regarding restoration of tariff slabs for the energy charges for domestic consumers has been raised by various stakeholders/consumers. The Commission has taken up this matter by treating the comments/representations of the consumers/stakeholders as a suo-motu petition under Section 62(4) of the Electricity Act 2003.

2. While examining these representations, the Commission observed that under the new slab structure introduced in its order dt. 26.06.2012 for the FY 2012-13, some consumers who were consuming slightly more than 200 units experienced a disproportionately higher tariff increase as compared to other consumers. This disproportionate increase persists though to a decreasing degree till consumption upto 400 units. In order to rectify this apparently unintended incidence of tariff on primarily middle class consumers, the Commission considered it prudent, to revise/rationalise the tariff slabs. The following revisions were suggested;:

Existing Tariff Structure (Dated 26.06.2012)		**Proposed Tariff Structure w.e.f. 1/7/2012**	
Slabs	Energy Rate/Unit (in Rs. per unit)	Slabs	Energy Rate/Unit (in Rs. per unit)
0-200	3.70	0-200	3.70
0-400	4.80	201-400	5.70
Above 400	6.40	Above 400	6.40

3. In order to hear the concerns of stakeholders on the above proposal, the Commission issued a public notice regarding public hearing for rationalization of tariff slabs for domestic consumers on 27/28.09.2012 in various news papers.

4. Through this public notice, the Commission invited comments/suggestions from the stakeholders/consumers on the above proposal in order to restore the earlier tariff slabs for the domestic consumers.

5. All the interested stakeholders/consumers were invited to give their comments/suggestions on the above proposal during the public hearing on 08.10.2012. Some of the stakeholders could offer their comments during the public hearing before the proceedings were disrupted. In order to give an opportunity to all interested stakeholders/consumers who could not offer their comments due to disruption of the public hearing, the Commission granted more time to such stakeholders to offer their written comments/objections to the Commission latest by 17.10.2012. A public notice in this regard was also published on 10.10.2012 in various news papers.

6. Sh. D. Sundararaman along with some other consumers submitted that the existing rate per unit of Rs.4.80 for 200-400 units should not be changed. He further submitted that increase from Rs. 4.80 per unit to Rs. 5.70 per unit would amount to raising the tariff. The Commission should raise the first slab so that more consumers are covered in this slab. He suggested multiple slabs and raising of first slab to 300 units per month.

7. Sh. Rajiv Kakaria, Sh. Anil Sood along with some other stakeholders submitted that the proposed public hearing of re-fixation of slabs is in contravention of sub section (4) of section 62 of Electricity Act, 2003 as amended up to date that postulates as under:-

> *"62 (4) No tariff or part of any tariff may* ***ordinarily*** *be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified."*

8. These stakeholders further submitted that new slabs should be as follows:-

0 to 200 units @ Rs.1.25 per Unit.

201 to 300 units @ Rs. 2.10 per unit.

Next 100 units @ Rs.3.00 per unit.

Next 100 units @ Rs. 4.10 per unit.

500 to 700 units @ Rs. 5.15 per unit.

700 to 1000 units @ Rs.6.10.

Beyond 1000 units consumers should be charged commercial rates at highest slab to curb extravagant use of scarce resource.

9. Sh. Anang Pal Singh, Sh. V.K. Malhotra along with others submitted that since inception / constitution of the Commission no retail tariff order ever contained the present slab system which is too harsh and is detrimental to the interest of the consumers of Delhi. It appears from the tariff schedule that the Commission never intended such a slab system in the tariff schedule but has been introduced inadvertently for which corrective action without change of energy rate per unit in the slab of 201-400 units is permissible under the law and is required to be taken by the Commission.

10. Sh. O.P. Sehgal and others have submitted that consumers who are consuming energy units more than 200 units per month, or having sanctioned energy load more than 2KW have been billed @ Rs. 4.80 per unit for the first 400 units per month. They have been deprived of the benefit of first slab of Rs.3.70 per unit, for the first 200 units' p.m. Keeping in view the previous slab of Rs. 3.00 per unit for the first 200 units, the enhanced slab of Rs. 4.80 per units amounts to an increase of about 60% in the energy charges. This is too harsh for senior citizens, pensioners, middle class & non- businessmen, who are already facing financial hardship due to high rate of inflation. This amounts to additional burden on them.

11. Dr. Narender Nath along with Sh. Mukesh Sharma, MLA have submitted that earlier domestic tariff slab i.e. 201-400 units may be resorted in place of slab of 0-400 and the rate should be Rs. 4.80 per unit in the interest of consumers of Delhi.

12. Sh. K.K. Kapoor along with others have submitted that the tariff slabs be brought back to the earlier stage and rate proposed to be revised from Rs. 4.80 to Rs. 5.70 be brought back to Rs. 4.80.

13. Sh. Atul Goel submitted that tariff is to be enhanced on the basis of tariff order but not according to the order on Tariff Schedule. During the current year it is not followed i.e: the Tariff Order was announced on 13 July 2012 after the announcement of Order of Tariff Schedule after intervention of the Hon'ble High Court of Delhi. Hence its implementation should be subsequent to the date of announcement as per provision u/s 62 of EA 2003. Therefore, its implementation from 1 July 2012 is illegal. As stated, the amount collected/charged by the discoms for the period starting 1 July to 13 July 2012 should either be refunded or adjusted in bills. Public hearing called on 8 October 2012 by DERC for change in schedule implies that the current tariff order shall apply from that day onwards only for current year .

14. BRPL has submitted that rationalization of tariff slabs for domestic consumers (on base data for the month of April 2012 to July 2013) reveals that it will have a negative impact on its revenues which is estimated to be around Rs 80-90 Cr. per year. It is further submitted that the proposed tariff revision may be carried out in a manner that is revenue neutral. It is further submitted that tariff revision if any should only be prospective.

15. TPDDL has submitted that as per computation lower revenue reliazation to the tune of around Rs. 55 Cr./annum due to the proposed rationalization exercise of the Commission.

TPDDL has further submitted that the important element of "public interest" with which proposed revision is being made shall not serve its true purpose in case the submissions made by them are not considered. Even if assuming that the proposed revision shall provide relief to the consumers for a while but later on the same is likely to adversely affect the consumer interest since TPDDL shall under recover its projected revenue leading to revenue loss thereby adding to the existing revenue gaps.

TPDDL proposed the following modifications in the tariff rates/structure which is likely to provide benefits to those who have been adversely affected by abolition of slabof 201-400 units and correspondingly ensure that there is no loss of revenue in case proposed change in slabs is carried out. Detailed computation is explained in Table below:

TPDDL proposed slab/tariff to maintain tariff neutrality

Description	Nos.	Units Consumed (Mus)	Current Applicable Tariff	New slab as per TPDDL proposal	Revenue as per current applicable tariffs	Revised Revenue as per TPDDL proposal
A : Domestic Consumer >200 units but <400 units	277,500	960				
-consumption upto 200 units		666	4.80	3.70	320	246
-consumption between 200-400 units		294	4.80	5.90*	141	173
Total Revenue					461	420
Shortfall Revenue due to revised slabs (A)					41	
B: Domestic Consumer consuming more than 400 units	158,000	1,300				

-consumption upto 200 units		379	4.80	3.70	182	140
-consumption between 200-400 units		379	4.80	5.90	182	224
-consumption more than 400 units		52	6.40	7.15*	347	387
Total Revenue					711	751
Shortfall in Revenue due to revised slabs (B)					(41)	

TPDDL has suggested that the same be revised prospectively and not retrospectively since the same may invite revision of all past bills and passing on the resultant benefits to the consumers which shall be a difficult and time consuming activity. In addition thereto, it is most likely that a large number of consumers shall approach seeking clarification and explanation of the bill revision which would require additional man-hours to be invested.

16. The Commission heard a few stakeholders at length during public hearing on 08.10.2012. The Commission has also perused the written comments of various stakeholders which are of similar nature. Further, the Commission has examined the relevant provisions of Electricity Act, 2003/rules and regulations made there under.

17. On the basis of representations received, the Commission observed that in the new slab structure introduced vide tariff schedule dated 26.06.2012 forming an integral part of the tariff order dated 13.07.2012 for FY 2012-13 to 2014-15, some consumers who were consuming slightly more than 200 units experienced disproportionately higher tariff increase over the earlier tariff vide order dt. 26.08.2011 as compared to other consumers. For instance, it was observed that while consumption up to 200 units would result in approx. 33% tariff increase after accounting for 8% surcharge, consumption upto 210 units was resulting in an increase of over 66%. This high increase reduces somewhat with higher consumption but is still as high as 44% at the consumption level of 300 units and finally the increase at consumption of 400 units almost matches increase in case of consumption of 200 units. This disproportionate increase was primarily due to abolishing the earlier telescopic effect of tariff whereby any consumption above 200 units was being uniformly charged at a higher tariff without allowing the lower tariff for the first 200 units. The Commission *prima facie* felt it was not prudent, to impose this disproportionate increase at a consumption level which corresponds to the average middle class consumption pattern. Accordingly, it was proposed to rationalize the tariff for the domestic consumers as given in the public notice dated 27/28.09.2012.

18. During the public hearing and subsequent receipt of objections, domestic consumers have largely requested for keeping the second slab of 200-400 units at Rs.4.80 instead of increasing it up to Rs.5.70. This cannot be accepted since there has to be some tariff increase in various slab levels. Thus, a 70 paise increase in the first slab level of 0-200 units amounts to approx. 23% increase. A similar increase in the second slab level of 200-400 units would bring it to above Rs.5.70. However, considering that this slab(200-400 units) of consumers is the hardest hit by the earlier tariff structure and with a view to ensure that this section also faces an overall increase in electricity bills of approx. 33%, the Commission has decided to restrict the increase in this slab to 70 paise, thus giving a tariff of Rs.5.50 for consumption between 200-400 units. However, any level lower than Rs.5.50 would not be fair to the other consumers. At the same time, a marginal increase of 10 paise in the slab 'more than 400 units' is necessary to recover some of the resultant loss in revenue to discoms and therefore the slab 'more than 400 units' will now be Rs.6.50 per unit instead of the proposed Rs.6.40. The Commission has observed that the proposed rationalization would definitely benefit the consumers in the range of 200 to 400 units where the percentage increase in Tariff would come down on an average by approx. 15%. At the same time, those consuming above 400 units would not be substantially affected by a 10 Paise increase.

19. At the same time, this would result in lower revenue realization for the discoms' who have drawn attention to the shortfall in their collections on this account. While accepting the fact that there will be a shortfall in the discoms' revenue collection, the Commission has noticed that this rationalization would only result in marginal decrease in the projected levels of backlog recovery in the case of TPDDL and BRPL while it would marginally increase the overall backlog upto 31.03.2012 in the case of BYPL. Any move to further decrease the tariff between 200 and 400 units from Rs.5.50 to a lower level would thus be to a greater detriment to the finances of the discoms'. This additional shortfall will have to be recovered subsequently with carrying cost and hence would not be in public interest.

20. The Commission has examined the legal issues raised by the stakeholders/consumers. On legal evaluation of the comments of some of the stakeholders, it is noticed that they have an apprehension that the Commission cannot revise the tariff determined by the Commission in the tariff schedule dated 26.06.2012 forming an integral part of the tariff order dated 13.07.2012 for FY 2012-13 to 2014-15. The Commission has considered the provision of Section 62(4) of the Electricity Act, 2003 which provides that:

> *"No tariff or part of any tariff may ordinarily be amended more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified"*

21. A bare perusal of the said Section of the Act makes it clear that a tariff order may ordinarily be amended once in any financial year. This implies that in extra ordinary circumstances, a second revision is also possible. The Commission is of the opinion that such extra ordinary circumstances exist because the existing tariff order is leading to undue hardship to one section of consumers and this anomaly needs to be corrected in the interest of fair play and justice.

22. Accordingly, the Commission, considering it expedient and in public interest to do so, hereby revises the tariff slabs specified under 1.1 in the tariff schedule for domestic consumers as follows:

Existing Tariff Structure (Dated 26.06.2012)		**Proposed Tariff Structure w.e.f. 1/7/2012**	
Slabs	Energy Rate/Unit (in Rs. per unit)	Slabs	Energy Rate/Unit (in Rs. per unit)
0-200	3.70	0-200	3.70
0-400	4.80	201-400	5.50
Above 400	6.40	Above 400	6.50

- These tariff rates shall continue to be subject to an additional surcharge of 8% on fixed and energy charges (excluding : LPSC, Arrears & E.Tax)

23. The revised slab structure shall be effective w.e.f. July, 2012, and, refund on account of the earlier billing under the existing Tariff Structure shall be adjusted by BRPL, BYPL and TPDDL in the next Bill.

24. Ordered accordingly.

Sd/-	Sd/-	Sd/-
(J.P. Singh) MEMBER	(Shyam Wadhera) MEMBER	(P.D. Sudhakar) CHAIRMAN