

# 1. Background, Procedural History and Description of ARR Filing

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## 1.1 Constitution of the Delhi Electricity Regulatory Commission

The Delhi Electricity Regulatory Commission (DERC) came into existence in pursuance to Notification, dated 3<sup>rd</sup> March 1999, issued by the Government of National Capital Territory (GoNCT) of Delhi, in exercise of powers conferred under subsection (1) of section 17 of the Electricity Regulatory Commissions Act, 1998 (ERC Act, 1998). The Commission became operational with effect from 10<sup>th</sup> December 1999 with the appointment of its Chairman. The stated objectives of setting up the Commission were:

**"rationalisation of electricity tariff, transparent policies regarding subsidies [and] promotion of environmentally benign policies".**

### 1.1.1 Powers and functions of the Commission

The powers and functions assigned to the Delhi Electricity Regulatory Commission under this Notification were:

**(a) to determine the tariff for electricity, wholesale; bulk, grid or retail and for the use of transmission facilities;**

**(b) to regulate power purchase and procurement process of the transmission utilities and distribution utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution and supply in the State; and**

**(c) to promote competition, efficiency and economy in the activities of the electricity industry to achieve the objects and purposes of this Act.**

## 1.2 Guiding principles for exercise of powers under the ERC Act, 1998

The powers relating to fixation of Tariff delegated under the ERC Act were required to be exercised subject to the following:

**(a)** principles and their applications provided in section 46, 57 and 57A of the Electricity (Supply) Act, 1948, and Sixth Schedule thereto; in the case of the Board or its successor entities, section 59 of the Electricity (Supply) Act, 1948;

**(b)** the tariff progressively reflects cost of supply of electricity at an adequate and improving level of efficiency;

**(c)** factors that would encourage efficiency, economical use of resources, good performance, optimum investments;

**(d)** assurance that the interests of consumers are safeguarded while paying for the use of electricity in a reasonable manner based on the average cost of supply of energy;

**(e)** application of commercial principles for electricity generation, transmission, distribution and supply; and

**(f)** the National Power Plans formulated by the Central Government.

### 1.2.1 Departure from the principles set forth in ERC Act

The Commission, however, could depart from the principles set forth in the ERC Act, 1998 (except for the Central Government National Power Plans) for reasons to be recorded in writing. It is also required that, the tariffs should not show undue preference to any consumer of electricity, and if a State requires a subsidy in the tariff of any

consumer or class of consumers, the State must provide adequate compensation.

### 1.3 Enactment of Delhi Electricity Reform Act, 2000

The GoNCT of Delhi promulgated the Delhi Electricity Reform Ordinance, 2000 on 28<sup>th</sup> October 2000. According to the provisions of this Ordinance the Commission constituted under the Electricity Regulatory Commissions Act, 1998 shall be the first Commission under the aforesaid Ordinance.

#### 1.3.1 Responsibilities assigned to DERC

This legislative enactment assigned the following responsibilities to the Delhi Electricity Regulatory Commission in the National Capital Territory (NCT) of Delhi excluding the areas of New Delhi Municipal Council (NDMC) and Delhi Cantonment Board:

*(a) to determine the tariff for electricity; wholesale, bulk, grid or retail, as the case may be;*

*(b) to determine the tariff payable for the use of the transmission facilities;*

*(c) to regulate power purchase and procurement process of the licensees and transmission utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution and supply in the National Capital Territory of Delhi;*

*(d) to promote competition, efficiency and economy in the activities of the electricity industry to achieve the objects and purposes of this Act;*

*(e) to aid and advise the Government in matters concerning electricity generation,*

*transmission, distribution and supply in the National Capital Territory of Delhi;*

*(f) to regulate the operation of the power system within the National Capital Territory of Delhi;*

*(g) to set standards for the electricity industry in the National Capital Territory of Delhi including standards related to quality, continuity and reliability of service;*

*(h) to promote competitiveness and make avenues for participation of private sector in the electricity industry in the National Capital Territory of Delhi and also to ensure a fair deal to the customers;*

*(i) to aid and advise the Government in the formulation of its power policy;*

*(j) to collect and publish data and forecasts on the demand for, and use of, electricity in the National Capital Territory of Delhi and to require the licensees to collect and publish such data;*

*(k) to regulate the assets, properties and interest in properties concerned or related to the electricity industry in the National Capital Territory of Delhi including the conditions governing entry into, and exit from the electricity industry in such manner as to safeguard the public interest;*

*(l) to issue licences for transmission, bulk supply, distribution or supply of electricity and determine the conditions to be included in the licences;*

*(m) to regulate the working of the licensees and other persons authorised or permitted to engage in the electricity industry in the National Capital Territory of Delhi and to promote their working in an efficient, economical and equitable manner;*

*(n) to require licensees to formulate prospective plans and schemes in co-*

*ordination with others for the promotion of generation, transmission, distribution, supply and utilisation of electricity, quality of service and to devise proper power purchase and procurement process;*

*(o) to adjudicate upon the disputes and differences between the licensees and/or transmission utilities and to refer the matter for arbitration;*

*(p) to aid and advise the Government on any other matter referred to the Commission by the Govt.*

#### 1.3.2 Legislative approval

The Legislative Assembly of the NCT of Delhi approved the Ordinance by adoption of the **Delhi Electricity Reform Bill, 2000 (DER Bill, 2000)** on **23<sup>rd</sup> November 2000**. While the DER Bill, 2000 was pending for approval of the President, the Ordinance lapsed six weeks after the date of its notification. After this legislative development the DERC reverted back to its original status of functioning under the ERC Act, 1998. The DER Bill, 2000, after receiving the assent of the President, was notified as **Delhi Electricity Reform Act, 2000 on 8<sup>th</sup> March 2001**. **This enactment was deemed to be in force from 3<sup>rd</sup> November 2000.**

#### 1.3.3 Broad Principles for tariff fixation

Regardless of the specific authority under which the Commission has operated, the broad principles for tariff fixation are well established and widely accepted. These include reflection of the cost of supply, the promotion of efficiency and economical use of resources, and safeguards for consumers including a prohibition on undue discrimination etc.

## 1.4 Orders and Papers issued by the Commission

Since its formation in December 1999, the Commission has addressed its approach to tariff fixation in two documents viz. "Concept Paper on Tariff" and "Order on Rationalisation of Tariff for Delhi Vidyut Board".

### 1.4.1 Proposal for rationalisation of tariff

On 25<sup>th</sup> August 2000, Delhi Vidyut Board (DVB) filed a proposal for the rationalisation of tariff for the year 2000-01, which it averred would rationalise the policies for supplying power to various categories of consumers with the objective of effecting improvements in its services. The proposal covered the following areas:

- a) definition of connected load
- b) higher tariff for extension of supply
- c) lighting load in agricultural tube wells
- d) kVAh billing for energy charges for bulk connections (MLHT and LIP)
- e) applicability of a fuel adjustment charge to all categories of consumers
- f) uniform tariff for non-domestic connections

### 1.4.2 Concept Paper on Tariff

In September 2000 the Commission issued its **Concept Paper on Tariff**, which first reviewed the history of the restructuring of the Delhi Electricity Supply Undertaking and the establishment of the Delhi Vidyut Board under the GoNCT of Delhi, and the establishment of the Commission. It then described the tariff proposal received from GoNCT of Delhi in May 2000, the procedure and significance of tariff fixation, and invited public comments on the conceptual issues contained in the Concept Paper.

## 1.4.3 Public hearings on rationalisation proposal

The Commission included the proposal for rationalisation of tariff in its Concept Paper on Tariff. It received comments from forty-seven organisations, departments and individuals. The Commission held public hearings in the month of December 2000 with selected group of respondents to address the issues pertaining to tariff rationalisation.

### 1.4.4 Order on rationalisation of tariff

On **16<sup>th</sup> January 2001**, the Commission issued its Order on "Rationalisation of Tariff for DVB", which discusses in detail each of the changes proposed by DVB and the orders thereon.

1.4.4.1 The Commission did not accept in toto DVB's proposals regarding the definition for connected load, the higher tariff for extension of supply to other parts of the building, plots etc. and the increase in lighting load in agricultural tube wells. Commission made several modifications with reference to proposals on these issues balancing the consumer interest as well as that of DVB

1.4.4.2 It accepted DVB's proposals regarding kVAh billing for energy charges for bulk connections and, in principle, application of a uniform tariff for single and three phase connections for non-domestic consumers (although not the increase in the unit charge).

1.4.4.3 On fuel adjustment charges on DVB's proposal on Fuel Adjustment Charges the Commission observed that FAC should not be recovered retrospectively and directed that in future proposed Tariff would incorporate the forecasting of revenue requirements on account of FAC.

## 1.5 Procedural history of tariff filing for the year 2001-02

### 1.5.1 Guidelines for revenue and tariff filing

The Commission forwarded to the Delhi Vidyut Board **Guidelines for Revenue and Tariff** in the month of October 2000. The Commission had laid down detailed instructions and prescribed the requisite formats for filing of revenue and tariff.

### 1.5.2 Filing of Petition

On **30<sup>th</sup> January 2001** the Commission received the documents titled **Annual Revenue Requirement for the Year 2001-02 and Tariff Determination Principles for the Years 2002-03 till 2005-06**. The documents filed by the Board were not in conformity with the requirements of the "**Conduct of Business Regulations**" framed by the Commission. The basic authorisation for filing the petition and the required affidavit for filing was not attached to the papers. The Board had also not enclosed proof of depositing the desired amount of fees as prescribed under the regulations.

### 1.5.3 Preliminary deficiencies in the filing

The preliminary deficiencies in the papers filed for tariff determination were communicated to the Board. After removal of procedural shortcomings and deposit of prescribed fees, the Commission on 2<sup>nd</sup> Feb. 2001 decided to take on record the papers filed by the DVB and admit the petition for further deliberations by the Commission and the petition was listed as petition No. 1, 2001.

### 1.5.4 Publicity to the tariff proposal

The petition stated that the "**Reform Act**" empowered the Government of NCT of Delhi to unbundle DVB into its

generation, transmission and distribution components and convert them into joint venture companies in which private investors would hold majority equity. The aforesaid legislation as stated by the Petitioner also required DVB to file its calculation, of the expected aggregate revenue from charges in the ensuing year, with the Commission. The petition further stated that in order to facilitate privatisation, the Petitioner was also filing the proposed tariff setting principles for determining tariffs in the financial years 2002-03, 2003-04, 2004-05 and 2005-06.

### 1.6 Description of the ARR Filing

DVB have computed the Annual Revenue Requirement (ARR) for the ensuing year 2001-02 as Rs. 5514 crores. The detailed break up is contained in Table 1.1 given herewith:

**Table 1.1: ARR filed by DVB**  
(Rs. In crores)

Reasonable Return/Surplus	74
Total Expenditure	5583
Total of Positive Elements	5657
Less: Non Tariff Income	143
Aggregate Revenue Requirement	5514

#### 1.6.1 Proposed means of meeting ARR

The Petitioner proposes to meet the ARR by the mobilisation of the resources as shown in Table 1.2. The proposal includes generation of additional revenue by way of a 35% increase in the income from tariffs and leaves a revenue gap of Rs. 817 Crs.

**Table 1.2: Proposed means of meeting ARR**  
(Rs. In crores)

Revenue at current tariffs	3484
Revenue from reduction in T&D losses of 2%	98
Revenue from increase in tariffs	
From units at same level of losses	1209
From additional units billed	52
Less: Electricity Duty	145
Net Revenue Available	4697

#### 1.6.2 Basis of proposed increase in tariff

The petition has stated that the increase proposed in the tariff has been estimated on the basis of its perception of the *ability of the consumers* to pay for the services provided by the utility. The Petitioner have not based the calculation on DVB's cost of services. It has been requested that the Commission may allow an adjustment in the uncovered revenue gap leaving the tariff proposal undisturbed and also permit the utility to recover the uncovered revenue gap in the next financial year along with a 20% per annum carrying cost.

#### 1.6.3 Proposed increase in tariff

Increases in tariff, by consumer category, are approximately 50% for the Domestic category, 30% for the Non-Domestic category, 25% for Small Industrial Power (SIP) and 15% for Large Industrial Power (LIP). The tariff increase is based on the presumption that the DVB will be privatised in the coming year and, therefore, the Petitioner is not claiming certain expenses such as past losses which it may otherwise be permitted (and required) to recover through tariff increases, as these would be expected to be accommodated in the privatisation scheme. It has been stated that adding losses to the tune of Rs. 700 crores would further increase the extent of overall tariff hike from 35% to 116% which would be equivalent to more than 100% increase for each consumer category.

#### 1.6.4 Some other requests in the proposal

DVB have also proposed increases in the minimum charges, change in the categorisation limit for bulk consumers covered by MLHT/LIP categories from 100 kW to 50 kW, and have proposed a

further division of the first domestic slab of 1-100 kWh into two slabs of 1-50 & 51-100 kWh.

#### 1.6.5 Separate information on transmission and distribution

As DVB have not yet completely separated the expenditure requirements into its transmission and distribution functions, the organisation is not able to file separate transmission, bulk supply, distribution and retail supply tariffs. It intends to supply this information as soon as it is available, so that the bulk supply prices can be determined. However, such determination does not have any impact on the retail tariffs under consideration.

#### 1.6.6 Tariff setting principles

DVB believes that in order to enable it to develop a long-term business strategy and plan it is necessary to indicate the level of tariffs for the next five years. Based on the tariff levels, by consumer category, proposed in the ARR filing for 2001-2002, DVB proposes to escalate tariffs according to a set formula; the details of tariff setting principles are brought out separately in Chapter 5. DVB also proposes that the Commission may agree to lay down tariff principles for the years 2006-07 to 2010-11, one year before the commencement of the financial year 2006-07.

#### 1.6.7 Deficiencies in the filing

DVB have stated that the petition has been filed in accordance with the Commission Guidelines adopted in October 2000. However, given the data lacunae at the utility, there are critical deficiencies in the filing.

**1.6.8 Unaudited accounts**

DVB have informed that the predecessor organisation DESU had not prepared the accounts regularly. The last audited accounts available pertain to the year 1991 – 92. Subsequently, the Petitioner have stated that it had strived to prepare the accounts and submit the same to the appropriate auditing authority. According to the DVB, accounts up to the year 1999 - 2000 have been submitted to the auditors.

**1.6.9 Information on assets, forecast figures and subsidy**

The Petitioner, at the time of the filing, did not have a complete fixed assets register. The filing did not include information on DVB's own generating stations, its load forecast projection for 2001-02 and methodology for estimating consumption by each category of consumer, its procedure for estimating additional investments, or the methodology for estimating the consumer contribution. The Petitioner did not state whether it had requested for a subsidy from the GoNCT to cover its revenue gap, and if it had, what was the response from the government.

**1.6.10 Embedded and marginal cost study**

DVB could not furnish either an embedded cost study or a marginal cost study to support its filing. Nor did it provide any detail on its strategy for the reduction in T&D losses, its plans for future load research, its plans for rationalisation and upgradation of its manpower or its efforts to strengthen the energy audit programme and reduce T&D losses.

**1.6.11 Effect of legislative changes on the proceedings****1.6.11.1 Conduct of proceedings**

From the date of filing of the petition the proceedings were being conducted in accordance with the Conduct of Business Regulations framed by the Delhi Electricity Regulatory Commission under the ERC Act, 1998. On 8<sup>th</sup> March 2001, the Government of NCT of Delhi notified the Delhi Electricity Reform Act, 2001, which was deemed to be in force from 3rd November 2000. The proceedings for tariff determination, which were in progress had, therefore, to be now conducted in accordance with the provisions of the Delhi Electricity Reform Act. The Commission had notified its Conduct of Business Regulations on 27<sup>th</sup> January 2001, which were in accordance with the provisions of ERC Act, 1998. After Notification of the Delhi Electricity Reform Act, 2000 the Commission notified its Comprehensive Conduct of the Business Regulations as per DER Act, 2000 on 9<sup>th</sup> March 2001, which superseded the Conduct of Business Regulations notified earlier.

**1.6.11.2 Continuation of proceedings**

The Petitioner informed that the petition filed by them earlier in accordance with the provisions of the ERC Act, 1998 may now be considered to have been filed under the DER Act, 2000 and all acts and filings done in the context of the previous Act be deemed to have been done under the provisions of the Comprehensive Conduct of Business Regulations notified on 9<sup>th</sup> March 2001 by the DERC. After considering the request of the Petitioner, the Commission decided to accept the same in public interest and it was decided that the proceedings shall be continued under the DER Act, 2000 in continuation to the

proceedings, which have already been taken up so far. The Commission also published public notices to this effect in leading English and vernacular dailies published from New Delhi. No objection to the continuation of proceedings under the DER Act, 2000 was received from any consumer or stakeholder.

**1.7 Public notice and process of public hearing****1.7.1 Publicity to tariff proposal****1.7.1.1 In the Press**

The tariff proposal filed by the petitioner was given wide publicity by publishing the same in leading English and vernacular newspapers published from Delhi. Advertisements, containing full details of the tariff proposal and other salient features of the Annual Revenue Requirement, were published on 4/5<sup>th</sup> February 2001. The consumers and stakeholders were given time to respond till 19<sup>th</sup> February 2001.

**1.7.1.2 On the website**

Complete copy of the petition filed by the DVB was also placed on the Commission's website. The stakeholders could also procure copies of the petition from the Commission's office on payment of the cost thereof. The stakeholders were given opportunity for filing their responses either by post or through e-mail or by fax message. A large number of responses continued to be received even after the closing date. It was decided that all responses, which had been received by 23rd February 2001, shall be taken into consideration by the Commission.

**1.7.2 Categorisation of responses**

The Commission received, in all, 523 responses. The category wise listing of the responses is given in Table 1.3.

**1.7.3 Shortlisting of respondents for hearing**

After detailed review of all the responses received before the closing date, 155 respondents were shortlisted for being given opportunity for appearance before

**Table 1.3: Categorywise list of responses**

S. No.	Category	Number of responses
1	Individual	274
2	Industrial	117
3	Agricultural	002
4	Coop Societies	024
5	Govt Deptt	004
6	Political Party	001
7	MLAs	002
8	Chamber of Commerce	01
9	Hotels	005
10	Associations (Domestic)	027
11	Associations (Industry)	030
12	Associations (Agricultural)	001
13	Associations (Engineering)	001
14	Others	034
<b>Total</b>		<b>523</b>

the Commission for personal hearing. The process of personal hearing was in continuation to the exercise for interaction

with the stakeholders, which had been started with the receipt of written responses in the first stage.

**1.7.4 Criteria for selection**

The selection of respondents for personal hearing was confined to representative groups of various categories of consumers and to those organisations, which were considered to be representatives of consumers' interest. Some individual respondents, who had made submissions that indicated knowledge of the power sector were also selected. Four Government organisations namely MCD/NDMC/Delhi Metro Rail Corporation Ltd. and Northern Railways and three utilities from private sector were called for presentation through personal appearance. Two MLAs and one political party were also called for hearing.

**Table 1.4: Schedule of Public Hearing**

Sr. No.	Date	Session	Category
1	14 <sup>th</sup> March 2001	1 <sup>st</sup> & 2 <sup>nd</sup>	Domestic
2	15 <sup>th</sup> March 2001	3 <sup>rd</sup> & 4 <sup>th</sup>	Cooperative Societies
3	16 <sup>th</sup> March 2001	5 <sup>th</sup> & 6 <sup>th</sup>	NGOs
4	17 <sup>th</sup> March 2001	7 <sup>th</sup> & 8 <sup>th</sup>	Industrial
5	19 <sup>th</sup> March 2001	9 <sup>th</sup>	Politicians
6	20 <sup>th</sup> March 2001	10 <sup>th</sup> & 11 <sup>th</sup>	Utilities/Govt. Deptts.
7	21 <sup>st</sup> March 2001	12 <sup>th</sup> & 13 <sup>th</sup>	Individual/Commercial
8	27 <sup>th</sup> March 2001	14 <sup>th</sup>	NDMC

**1.7.5 Schedule for public hearing**

The process of Public Hearing was extended to 14 sessions as per the schedule given in Table 1.4.

**1.7.6 Reply sought from the Petitioner**

After the Public Hearing was over, the Petitioner were asked to submit issue wise reply to the objections raised by the respondents. DVB were also asked to submit additional information and detailed note on some of the important issues raised by the respondents during the Public Hearing. The Commission also had a number of technical sessions with DVB officials and its consultants and continuously sought additional information and clarifications from the DVB, till the time this order was issued.