

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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CASE No. 12 of 2004

**In the matter of Review of Order dated 1.7.2004 regarding determination of ARR
and Tariff of M/s BSES Ltd. (now Reliance Energy Limited)**

Dr Pramod Deo, Member
Shri A. Velayutham, Member

INTERIM ORDER

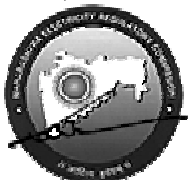
Dated: September 30, 2004.

After an elaborate public process and following the provisions of law, the Commission passed its detailed Order in respect of the electricity tariff of M/s BSES Ltd. (now Reliance Energy Ltd. -- REL) for FY 2004-05, on July 1, 2004 in Case No. 18 of 2003. Thereafter, under affidavit dated August 4, 2004, REL sought review of the Order on several counts. On the Commission's direction, REL submitted a further Petition on August 24, 2004, clarifying, in respect of each point raised, as to how the Petition met the requirements of review under Regulation 85 (a) of the Commission's Conduct of Business Regulations rather than being the subject matter of appeal.

2. At the outset, it would be useful to set out Regulation 85(a), which reads as follows:

“Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within 45 days of the date of the direction, decision or order, as the case may be, to the Commission.”

3. The Review Petition included, among other issues, a prayer for redefining the LTP-2 category of REL at par with the definition of the LTP-2 category determined in respect of the Tata Power Company (TPC). In the meantime, the Commission also received representations from several LTP-2 consumers of REL (presumably with loads between 15 HP to 50 HP and belonging to the earlier LTP-2 category) stating that their bills had risen very sharply and they were faced with a tariff shock as a result of the tariff revision and tariff rationalisation undertaken by the Commission. REL also submitted a letter dated September 15, 2004 in this regard, seeking that the Commission address this issue by revising the applicability of the two-part tariff to the LT industrial consumers in line with MSEB's tariff structure or, alternatively, permit REL to defer



the application of the new tariff until the next Tariff Order. The Commission directed REL to submit a supplementary affidavit to include this point fully in their Review Petition.

4. The Petition was heard for admission on September 20, 2004. Shri. Subodh Shah, Director, REL, made a presentation on the issues raised in the Review Petition. With regard to the LTP-2 category, Shri Shah submitted that, earlier, this category applied for consumers with loads between 15 HP to 50 HP. It was also a single-part tariff (i.e without fixed charges), and there was no Power Factor (PF) penalty. The new LTP-2 category, however, covers consumers from 15 HP upwards, and also introduces a two-part tariff along with PF surcharge. As a result, the tariff of many consumers falling in this category has risen very sharply in absolute terms. Shri Shah stated that REL have around 12,000 consumers in the LTP 2 category, and in many cases their bill amounts have increased by several times.

5. With regard to the issues regarding the new LTP 2 tariff, the Commission drew attention at the hearing to its consistent philosophy applied in determining tariffs ever since its first Tariff Order for the Maharashtra State Electricity Board (MSEB) in the year 2000, which includes two-part tariff, PF penalty, reduction in the number of tariff slabs and categories, introduction of contract demand, etc. The Commission expected REL to educate their consumers regarding the philosophy and process of tariff determination and the rationale for various changes. Since, unlike MSEB, REL's tariff had been scrutinised and revised for the first time ever through the regulatory dispensation, the rationalisation was bound to lead to some difficulties. However, the Commission decided that the Petition would be admitted only to the extent of issues relating to LTP-2, considering that there appears to have been an inadvertent tariff shock, which was inconsistent with the Commission's stated philosophy. On this matter, therefore, the Commission was willing to consider various solutions. The other matters essentially sought substantive modifications unsupported by any such argument and were outside the limited scope for review set out in Regulation 85, and could be agitated in appeal which was not within the Commission's jurisdiction. The Commission would address them only to extent that any clarifications were necessary or relevant.

6. As directed by the Commission, REL submitted an additional affidavit on September 24, 2004, outlining three Options for modifying the tariff applicable to the sub-category of 15 HP to 50 HP consumers within the new LTP-2 category. REL elaborated on these Options at the second hearing held on September 29, 2004.

7. At this hearing, REL's representatives submitted that they had installed Maximum Demand (MD) meters for around 3,500 LTP-2 consumers, and were in the process of doing so for the remaining consumers as per the schedule laid down by the Commission in its Order. REL expected to achieve the metering target by November-end. In the meantime, REL are continuing to charge those LTP-2 consumers in respect of whom MD meters have not yet been installed, as per the LTP-1 tariff, in accordance with the Order. REL added that the problem of tariff shock had been realised where MD meters have been installed. REL had intimated the concerned consumers to submit their desired Contract Demand. In the meanwhile, REL had equated the Contract Demand to the Sanctioned Load for billing purposes.

8. Considering the urgent need to mitigate the inadvertent tariff shock to this category of consumers and to grant them immediate relief, the Commission has decided to address the issue of the LTP 2 tariff through this Interim Order, and would deal with the remaining issues raised by REL in its final Order on the Review Petition.

9. Since REL's tariff has been determined recently for the first time through the regulatory process and under a new legal framework, the Commission believes it is necessary to highlight certain aspects of the tariff philosophy adopted by the Commission in its Tariff Orders for the



MSEB and TPC, and its approach while revising REL's tariff. The REL Tariff Order dated July 1, 2004 states that:

“The Commission has determined the tariffs applicable to BSES’ consumers, keeping in mind the existing tariff structure of BSES, MSEB, BEST, the recently revised tariffs of TPC, and the tariffs proposed by BSES, with the intention of reducing the imbalances between the tariffs applicable for the same consumer category across Licensees in the State.

The Commission has undertaken significant rationalisation of categories and sub-categories/slabs as a result of which the billing rate for some categories has increased, while that of some others has been reduced, though both are subsidising categories. This is inevitable in any tariff rationalisation exercise. The rationalisation has been undertaken in such a way that the categories and slabs are similar to those of the Maharashtra State Electricity Board (MSEB) and the Tata Power Company Ltd. (TPC) to the extent possible.”

10. The Commission has introduced a two-part tariff for HT industrial consumers on the basis of Contract Demand, which is the cornerstone for any kind of power system planning. The Commission had also introduced an optional two-part tariff based on Contract Demand for MSEB's LT industrial/commercial consumers, who were also given the benefit of availing Time of Day (ToD) tariff, depending on time of use of energy. For those MSEB consumers having, historically, a tariff based on connected load, the Commission could not fully do away with the HP-based tariff at one go. However, it intends to do so in future once metering is completed. In respect of TPC, since full MD-based metering is already in place, the Commission has not specified any HP-based tariff. As far as REL are concerned, the Commission has introduced a demand-based tariff and directed REL to complete MD metering for its consumers by the end of December, 2004. The Commission would like to move towards a LT-less distribution system for reducing distribution losses, which are paid for by consumers.

11. Another basic principle adopted by the Commission is that a fixed charge based on Contract Demand/Billed Demand is more scientific than a fixed charge based on connected load or per connection, which is often an area of dispute between the licensee and the consumer. In respect of certain categories, in the absence of adequate data, the Commission has been specifying fixed charges on the basis of connected load or per connection. However, Contract Demand or Sanctioned Load are the correct indicators of the load imposed by a consumer and agreed to be delivered by the electricity supplier at any given point in time. This also ensures that the consumer is charged for the facility created to cater to his Contracted Demand or Sanctioned Load. The present problem has arisen partly because the connected load of the affected consumers (which has remained unchanged for a long time) has been directly equated with the Contract Demand. This has been further aggravated due to the widely fluctuating load usage pattern of such consumers in each month. Because of low utilisation of Sanctioned Load, the concerned consumers end up paying a very high bill, which was not intended by the Commission. This is particularly so in the case of small industrial consumers in the REL area who are unaware of the concept of Contract Demand and the need for optimising the demand requirement to maintain a good load factor (i.e., more than 60%).

12. The concept of Contract Demand has been prevalent for a long time in the case of MSEB and TPC. The Commission directs REL to educate their consumers regarding the concept of Contract Demand and the principles to be borne in mind while deciding its level keeping in view factors such as the nature of work, the tariff, and the penalty for exceeding it. The consumers, on their part, should also seek to understand the concept and implications of Contract Demand and



the need to enter into an agreement with regard to Contract Demand. It may be useful to set out the meanings of Sanctioned Load, Connected Load, Load Factor, Contract Demand and Maximum Demand, which are broadly as follows:

“Sanctioned Load” means load in kilowatt (kW)/Horsepower (HP) mutually agreed between the Distribution Licensee and the consumer; i.e. the load specified in the agreement.

“Load factor” means the ratio of total number of units consumed during a given period to the total number of units which may have been consumed had the contract demand/sanctioned load been maintained throughout the same period, subject to availability of supply from the Distribution Licensee and shall usually be expressed as a percentage;

“Contract Demand” means demand in kilowatt (kW)/kilovolt ampere (kVA), mutually agreed between the Distribution Licensee and the consumer as entered into in the agreement;

“Maximum Demand” in kilowatts or kilovolt amperes, in relation to any period shall, unless otherwise provided in any general or special order of the Commission, mean twice the largest number of kilowatt hours (kWh) or kilovolt ampere hours (kVAh) supplied and taken during any consecutive thirty minute blocks in that period.

In the past, the Licensees used to levy tariff on the basis of “Connected load”, which normally means the sum of rated capacities of all the energy consuming devices on the consumer’s premises, which can be operated simultaneously.

13. The Connected Load will typically be higher than the Contract Demand, as all the equipments are not used at the same time, resulting in diversity of load operations. The consumers should have the freedom to reduce their Contract Demand based on their actual requirements, after studying their total load, load factor, and diversity factor rather than simply equating the Connected Load to Contract Demand. Thus, consumers may opt for a level of Contract Demand, which is less than their Connected or Sanctioned load, while at the same time taking into account the penalty for exceeding Contract Demand.

14. The Commission has considered but not adopted any of the three Options put forward by REL with regard to LTP 2 keeping in view its tariff philosophy. Instead, after careful consideration and in order to give immediate relief to many affected consumers, and consistent with its stated principles, the Commission has decided to modify the LTP 1 and LTP 2 tariff categories as follows, all other stipulations remaining the same:

Tariff as per Order dated 1.7.2004			Revised Tariff w.e.f. 1.10.2004		
Category	Fixed Charges	Energy Charges	Category	Fixed Charges	Energy Charges
		(paise/kWh)			(paise/kWh)
LTP-1 (0 to 15 HP)	Rs.150 per month	400	LTP-1 (0 to 50 HP)	Rs.150 per month	400
LTP-2 (above 15 HP)	Rs.374 per kVA	300	LTP-2 (above 50 HP)	Rs.374 per kVA	300

15. The revised tariff has the advantage of being easy to implement as well as bringing about greater similarity in the tariffs of REL and TPC, since TPC’s LT-1 category (Commercial and non-Commercial supply having Contract Demand less than 100 kVA) has the same tariff.



16. The revised tariff as above will be applicable from October 1, 2004, for the electricity consumption recorded from that date onwards.

17. At the hearing on September 29, 2004, REL agreed that the effect of this tariff revision could be taken up through the truing up process at the time of filing of the next Tariff Petition. In order to assess the present implications of this modification in tariff, REL are directed to submit the following data to the Commission within 2 weeks:

S.No.	Parameter	Consumer Category	FY 03	FY 04	FY 05	
					Apr-June	July-Aug
1	Consumption (in MU)	LTP-1				
		LTP-2				
		LTP-3				
2.	Connected Load (in kW)	LTP-1				
		LTP-2				
		LTP-3				
3	Sanctioned Load (in kW)	LTP-1				
		LTP-2				
		LTP-3				
4	Contract Demand (in kVA)	LTP-1				
		LTP-2				
		LTP-3				
5	Revenue (in Rs. Crore)	LTP-1				
		Fixed Charges				
		Energy Charges				
		LTP-2				
		Fixed Charges				
		Energy Charges				
		LTP-3				
		Fixed Charges				
Energy Charges						
6	Number of MD meters installed	LTP-2				
		LTP-3				

With this interim Order, the Commission disposes of the present Petition to the extent of the issues relating to tariff shock to the LTP-2 category. The remaining matters will be addressed separately in its final Order.

Sd/-
(A. Velayutham)
Member

Sd/-
(Pramod Deo)
Member



Sd/-
(A.M. Khan)
Secretary, MERC

