

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 49 of 2006

In the matter of
Review of Load Management Charges imposed by the Commission through the
Tariff Order for The Tata Power Company Ltd. (TPC) for FY 2006-07
in Case Nos. 22 of 2005 and 56 of 2005.

Dr. Pramod Deo, Chairman
Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

ORDER

Dated: 21st December, 2006

The Commission issued the Order in Case Nos. 22 of 2005 and 56 of 2005 on the Annual Revenue Requirement (ARR) Petition of The Tata Power Company limited (TPC) for FY 2005-06 and ARR & Tariff Petition for FY 2006-07, on October 3, 2006.

2. While pronouncing the aforesaid Order, the Commission being acutely conscious of the impending demand-supply gap, stipulated that in addition to the tariffs specified for recovery of the ARR, TPC would also levy a Load Management Charge and Load Management Rebate, as an economic signal to inculcate the habit of energy conservation, taking into account the power supply position. The relevant portion of TPC's Tariff Order (Pages 130 to 131 of Order) are reproduced below:

“The State of Maharashtra is passing through a phase of acute power shortage, and even Mumbai city, which so far has been spared of load shedding, is likely to face power shortages in the coming summer months. In the absence of additional capacity in the region and prevailing constraints of transmission corridor availability, there is an urgent need for energy conservation and load management by all power intensive consumers, in the short-term as well as the long-term. In order to achieve this, the Commission has adopted the principle of economic signals for high consumption consumers, in order to inculcate the habit of energy conservation.

- (i) *All the residential and commercial consumers consuming more than 300 units per month henceforth, and all industrial consumers (irrespective of their level of consumption) in the TPC License area will*



have to reduce their monthly consumption to a level of 80% of their consumption in the corresponding month in the past year (January 2005 to December 2005). A “Load Management Charge” shall be applicable for the consumption exceeding the 80% limit at the rate of additional 100% of the highest tariff chargeable to the respective category, and will be charged in the energy bill of the consumer in that month.

- (ii) The money collected through the levy of this “Load Management Charge” has to be maintained in a separate fund to be used for energy conservation and Demand Side Management (DSM) measures.*
- (iii) Any reduction in the monthly consumption below the 80% limit prescribed on a consumption in the corresponding month in the past year (January 2005 to December 2005) will be incentivised with a “Load Management Rebate” at the rate of 50% of the normal chargeable rate to the kWh units in the tariff slab applicable to the reduction in the number of units, vis-à-vis the benchmark consumption of 80% of the consumption in the corresponding month of the previous years, by adjusting the bill accordingly. This would be funded by the fund mentioned in paragraph ‘ii’ above, calculated in the energy bill of the consumer for that month.*
- (iv) In case of residential and commercial consumers having consumption greater than 300 units per month henceforth, and all LT/ HT industrial and HT commercial consumers who have already reduced their consumption in the corresponding months in the last year due to the load regulation measures introduced by the Commission in its Order in Case No. 4 of 2005, the load management target will be at the same level as that of the corresponding month last year, and further reduction to 80% of the consumption in the previous year is not mandatory in such cases.*
- (v) This monthly consumption reduction target will not be applicable for new consumers and in case of change in occupancy during the last one year for the existing consumers.*
- (vi) As regards the essential services, it is desirable that they should also try to reduce their monthly consumption, however, in case of failure to reduce the consumption to a level of 80% of their consumption in the corresponding month in the past year (January 2005 to December 2005), “Load Management Charge” as well as “Load Management Rebate” will not be applicable for the operational installations of following essential services:*

Railways

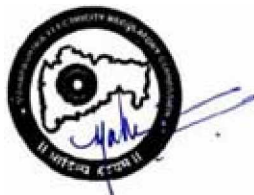
Water Supply and Sewerage systems operated by Government/local authorities

Telephone exchanges

Defence Establishments

Ports and Harbours

Meteorological observatories



*Hospitals
News Agencies
TV and Radio Stations
Posts & Telegraphs
Airports
Atomic energy establishments*

(vii) In case of the above essential services, the restriction of reducing the monthly consumption to 80% of their consumption in the corresponding month of the past year will however, be applicable for the attached residential colonies and the “Load Management Charge/Rebate” shall be applicable as mentioned in paragraphs ‘(i)’ to ‘(v)’ above”

3. The Commission also issued a Clarificatory Order in Case Nos. 25 of 2005 and 53 of 2005 and Case Nos. 22 of 2005 and 56 of 2005 on November 9, 2006 as follows:

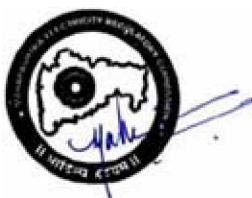
“The applicability of LMC and LMR in the following instances is clarified as follows:

- 1. If the industrial premises were under ‘lock-out’ or qualify under ‘sick industry’ definition during the corresponding period in the last year, then the reference period for comparison of consumption for levy of Load Management Charge/Rebate will be the last bill period.*
- 2. If the sanctioned load/contract demand has been increased, or if the nature of the connection has changed, or the consumer categorization has changed after October 1, 2005, then the reference period for comparison of consumption for levy of Load Management Charge/Rebate will be the last bill period after the respective change.*
- 3. If the consumption during the corresponding month in the previous year is either zero or less than 50% of the average consumption during the past 12 months (average consumption to be computed by excluding the zero consumption months), then the reference period for comparison of consumption for levy of Load Management Charge/Rebate will be the last bill period.*

The Tariff Orders of the Commission (Case 25 and 53 of 2005 and Case 22 and 56 of 2005) state that:

(v) “This monthly consumption reduction target will not be applicable for new consumers and in case of change in occupancy during the last one year for the existing consumers.”

It is clarified that the above clause is applicable for change in lessee/tenant in case of leased/rented flats or change in ownership, even in cases where the consumer name continues to be in the name of the original owner, provided the current lessee/tenant produces a lease agreement or leave and license agreement



or property agreement, respectively, documenting the above change, when asked to do so by the licensee.

The Distribution Licensees are directed to give effect to these clarifications with retrospective effect, wherever applicable, and adjust the consumers' bills for the specified months accordingly, through adjustment of future bills."

4. Subsequently, on November 27, 2006, M/s Vitrum Glass Division of Empire Industries Ltd. (VG), a consumer of TPC, filed a Review Petition before the Commission, on the levy of Load Management Charge (LMC) through the TPC Tariff Order in Case Nos. 22 of 2005 and 56 of 2005. The grounds for review as stated by VG are:

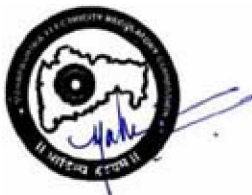
- a. VG manufactures amber glass bottles for the pharmaceutical industry, which is a continuous process industry;
- b. Electricity consumption accounts for over 10% of cost of production in the glass industry. Though VG has been trying its best to reduce electricity consumption, there is a limit to which consumption can be reduced;
- c. The average electricity consumption is around 1.10 MU per month. The monthly electricity bill increases by around Rs. 10.45 lakh, due to tariff increase and imposition of LMC;
- d. If levy of LMC is not reviewed, VG's operations will become unviable and they may have to close down their plant rendering hundreds of staff jobless;
- e. Continuous process industries like VG have no possibility of reducing consumption by 20%.

5. VG prayed that the Commission should exempt continuous process industries like VG from the levy of LMC.

6. The notice for the hearing on Case No. 49 of 2006 was issued on December 5, 2006, to the Petitioners, TPC and authorised Consumer Representatives. The hearing held on December 11, 2006, in the Commission's office, was attended by Mumbai Grahak Panchayat (MGP), a consumer representative organisation authorised on a standing basis under the EA 2003, and representatives of TPC, besides the officials of the Petitioner. During the hearing, TPC mentioned that it had also filed a Review Petition, wherein it had requested the Commission to discontinue the levy of LMC.

7. The Commission has already issued its Order on the same issue in case of Reliance Energy Limited (REL), in Case 44 of 2005 and 45 of 2005 dated November 30, 2005, and the same dispensation is being extended to TPC area also. The Commission hereby issues the following Order:

8. The Commission has been stressing the need for energy conservation in the short run to bridge the gap between demand and supply in the Mumbai license area since early 2005, and had issued an Order levying LMC for a period of two months in April and May 2005, in Case No. 4 of 2005, vide Order dated May 4, 2005, under



Section 23 of the Electricity Act, 2003 (EA, 2003). Since then, the Commission has been constantly monitoring the demand-supply situation in the Mumbai license area.

9. However, despite the Commission's Order, the consumers did not respond by regulating their consumption, and the demand and consumption have been increasing. Subsequently, on June 17, 2006, the Commission issued another Order in Case No. 46 of 2005, wherein it stated that

“Appropriate economic signals will be given in the form of levy of Load Management Charges (LMC) in the Tariff Orders of REL and TPC, along similar lines as given in the Tariff Order for BEST for FY 2005-06 [Case No. 4 of 2004].”

10. It is only when the consumers received the bills for the month of October that the consumers seem to have become aware of the implications of the Commission's Order on load regulation, and hopefully, the consumers have also become more aware of the need for energy conservation.

11. The Commission has made lot of efforts to disseminate the need for energy conservation and load regulation by individual consumers, and has even held public hearing on the matter. There is no denying that Mumbai city is heading for load shedding in future if urgent steps are not taken, both in the short-term and long-term, to mitigate the increasing demand-supply gap, either by sourcing additional supply or by reduction in demand. Hence, the Commission firmly believes that load regulation is one of the tools that need to be used to restrict the demand, and every consumer needs to contribute towards this effort of energy conservation, to ensure that the city of Mumbai continues to enjoy the privilege of uninterrupted power supply.

12. The Commission's primary objective in introduction of LMC was to send an economic signal to the consumers that energy conservation is the need of the hour, and any collection of funds is only incidental. Towards this end, the Commission had clearly indicated that the net amount collected through LMC would be used for energy conservation and DSM purposes and is not intended to be set off against the Licensee's ARR, which is being recovered separately through tariff. However, it appears that the consumers are still not really aware of the need for energy conservation and the measures to be taken to achieve energy conservation. As a consequence, the introduction of LMC is causing hardship to consumers as the overall bill of the affected consumers has increased significantly, and also significant additional amount is being collected from consumers.

13. Levy of LMC is one of the approaches for attaining the objective of load regulation, which has been adopted by the Commission. There are no obvious solutions, and in the absence of any data or feedback from Licensees, the Commission levied LMC using its best judgement, in the hope that it will convey the message of energy conservation to all consumers. Though the per-capita consumption in India is low, there is a lot of wastage that is taking place, which needs to be curbed.



14. The Commission holds that sufficient reasons exist for review of the Order dated October 3, 2006 in Case Nos. 22 of 2005 and 56 of 2005. In view of the fact that levy of LMC has caused unintended hardship and severe economic penalties, the Commission has reviewed the aforesaid Order and in supercession of the direction contained therein to levy LMC, directs TPC to discontinue the levy of LMC and LMR in all future bills. In cases where LMC/LMR has already been billed and/or collected, this amount should be adjusted in the subsequent bills of the consumers. In cases where the bills have already been issued by TPC to consumers for whom LMC/LMR is applicable, and payment is due, TPC will neither insist on payment of the LMC component of the bill, nor give credit for the LMR component, and will consider payment of total bill amount less LMC (or plus LMR) as full payment of bill. Further, amount collected under LMC should not be adjusted against any other dues.

15. Though the ATE has ruled that as LMC is not part of the tariff, there is no requirement to undertake a regulatory process as envisaged under Section 64 of the EA, 2003 for levy of LMC, however, the Commission believes that the overall objective of energy conservation can be achieved only through public participation and sensitisation of consumers towards the urgency of the matter. Hence, the Commission may initiate separate regulatory proceedings under Section 23 of the EA, 2003 to address the issue of load regulation and energy conservation for the license area of Mumbai.

16. TPC also needs to come forward with appropriate strategies to mitigate the demand-supply shortfall in the short-term and long-term, based on consumer category-wise consumption patterns and load curves and potential for energy conservation. TPC should submit the same within four weeks of issue of this Order.

17. In the meantime, TPC should submit details of category-wise revenue earned through levy of LMC as well as LMR given, for the months of October and November 2006, for the bills issued till date. This data should be submitted to the Commission within one week of issue of this Order.

With the above observations, the Commission disposes of the Petition filed by Vitrum Glass Division of Empire Industries Ltd.

Sd/-
(S.B.Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman



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(Malini Shankar)
Secretary, MERC