

PRESS NOTE

MERC Tariff Order for MSEDCL for FY 2009-10, dated August 17, 2009

The Commission issued the Order on MSEDCL's APR Petition for FY 2008-09 and Tariff Petition for FY 2009-10, on August 17, 2009. Recent press reports on the subject indicate an incomplete understanding of the rationale behind the Commission's Order. With a view to explain the circumstances and reasons more clearly, the Commission has directed issue of the following Press Note.

Before the constitution of the ERCs, the Central and State Governments were performing the dual role of being the owners of the vertically integrated State Electricity Boards/Utilities as well as the Regulators of the electricity sector in their respective territories. The Governments were issuing licences, approving the tariffs, settling inter-Utility disputes, etc.

The Electricity Regulatory Commissions (ERCs) were constituted in different States in the country over the period from 1996, initially under State specific Reform Acts in Orissa and Haryana, and later under the Electricity Regulatory Commissions Act, 1998 (ERC Act). The ERCs have subsequently been reconstituted under the Electricity Act, 2003 (EA 2003). MERC has been constituted in August 1999. One of the main objectives in constituting ERCs was to bring in transparency to the tariff determination process, by having an independent quasi-judicial body regulating the sector.

For ensuring economic viability of electricity sector on a stand-alone basis, it is essential to rationalize the tariffs. The cross-subsidy between consumer categories is reaching unsustainable levels. Since electricity is one of the raw materials in the manufacturing process, the electricity tariffs applicable in other States will influence the promoter's decision to locate the industry in a particular State. Investment in the State will result in increasing the direct and indirect employment in the State as well as the contribution to the taxes, thus boosting the State's economy, and helping in alleviating poverty to a certain extent. Sometimes, industries decide to shift their entire operations to another State citing unfavourable investment climate. Such a shift will result in loss of employment and hinder the State's development plans.

The EA 2003 has been enacted after a lot of deliberation at all levels, including Chief Minister's conferences, Planning Commission, and all other interested stakeholders. The EA 2003 was enacted in June 2003, and represents the will of

the Parliament of the country, and has to be followed. Initially, Section 61 (g) of the EA 2003 mandated that the cross-subsidy will be reduced gradually and eventually eliminated in the manner specified by the Appropriate Commission. However, this provision has been amended keeping in view the practical difficulties in eliminating cross-subsidy in a country like India, and now, Section 61(g) mandates that the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission, by deleting the reference to elimination of cross-subsidies.

The National Electricity Policy (NEP), notified by the Ministry of Power, Government of India on February 12, 2005, states as under:

“5.5 Recovery of Cost of Services & Targeted Subsidies

5.5.1 There is an urgent need for ensuring recovery of cost of service from consumers to make the power sector sustainable...

5.5.3 Over the last few decades cross-subsidies have increased to unsustainable levels. Cross-subsidies hide inefficiencies and losses in operations. There is urgent need to correct this imbalance without giving tariff shock to consumers. The existing cross-subsidies for other categories of consumers would need to be reduced progressively and gradually.”(emphasis added)

The Tariff Policy (TP), notified by the Ministry of Power, Government of India in January 2006, states as under:

“8.3 Tariff design : Linkage of tariffs to cost of service

...

2. For achieving the objective that the tariff progressively reflects the cost of supply of electricity, the SERC would notify roadmap within six months with a target that latest by the end of year 2010-2011 tariffs are within ± 20 % of the average cost of supply. The road map would also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy.”(emphasis added)

Given the historical existence of cross-subsidy and the wide disparity in tariffs payable by subsidising categories like industry and commercial category, vis-à-vis the tariffs payable by subsidised categories like residential, agriculture, Public Water Works, etc., the gradual reduction of cross-subsidy is a very difficult task, and MERC has been trying to achieve this fine balance to the best of its ability, through a transparent process of public consultation and tariff determination.

In the past, when the revenue gap and the average tariff increase required was very high, despite the best efforts of the Commission, the cross-subsidy could not be reduced for all the consumer categories because the subsidised categories could not be subjected to a tariff shock. Further, the Commission had ruled that consumer categories such as Malls and Multiplexes, which indulge in conspicuous high consumption of electricity, should pay higher tariffs and should get a tariff signal to reduce their consumption of electricity. Under the EA 2003, Orders passed by the ERCs can be appealed against before the Honourable Appellate Tribunal for Electricity (ATE). The affected consumers, viz., Malls, Multiplexes, and others appealed against the Commission's Orders before the ATE and the ATE set aside the Commission's Orders to the extent the cross-subsidy was increased. [refer ATE Judgments in Appeal No. 146 of 2007, Appeal No. 106 of 2008, Appeal No. 98 of 2008, Appeal No.s 153 to 159 of 2008, Appeal No.161 of 2008, Appeal No.164 of 2008, Appeal No.166 of 2008, Appeal No.167 of 2008, Appeal No.168 of 2008, Appeal No.170 of 2008, Appeal No.177 of 2008, Appeal No.178 of 2008, Appeal No. 68 and 69 of 2008]. In the above Judgments, the ATE has inter-alia ruled as under,

“...another ground for interfering with the tariff order is increase in cross subsidy levels and tariff shock caused to the appellant...Causing a tariff shock as well as raising the cross subsidy level are both opposed to the National Tariff Policy. The Commission is required to pay due regard to the National Tariff Policy”

“...the purpose of creating a new classification of LT-IX was not covered by any of the grounds on which the Commission could differentiate certain consumers on the ground that they indulge in “unwarranted commercial consumption” or had “a huge capacity to pay” or had potential to “conserve energy”. Further, we noticed that while the proclaimed tariff philosophy preferred reduction in cross-subsidy, creation of LT IX category in fact led to raising the levels of cross-subsidy for those who fell in this category.”

In compliance with the above provisions in law, Policies notified by the Government of India, and Judgments of Appellate Tribunal for Electricity, the Commission has attempted to reduce the cross-subsidy and has determined the category-wise tariffs accordingly. The relevant extracts of the Tariff Order are given as Annexure.

As seen from the shaded rows in the Tables given in the Annexure, the Commission has reduced the cross-subsidy between consumer categories, while at the same time ensuring that no consumer category is subjected to a tariff shock. The tariff increase to residential category is around 1%, and the tariff

increase to the commercial category, under which the malls and multiplexes are classified, is around 2% to 4% in the LT category, while the tariff for HT commercial category has been reduced by around 3%. In the revised tariffs, the residential consumers are paying around 96% of the average cost of supply, while LT commercial category and HT commercial category are paying around 148% and 179% of the average cost of supply, respectively.

Annexure

The comparison of the existing tariffs, tariffs proposed by MSEDCL and tariffs approved by the Commission as well as the percentage increase for each consumer category, are given in the Table below:

Category	Average Cost of Supply (Rs./unit)	Average Billing Rate (Rs./kWh)				
		Existing Tariff	Tariff Proposed by MSEDCL		Revised Tariff	
			ABR	% Increase	ABR	% Increase
LT Category						
LT I - Domestic	4.35	4.11	5.44	32%	4.17	1%
LT II - Non-Domestic or Commercial		6.05	8.86	46%	6.44	6%
(a) Upto 20 kW		5.51	7.95	44%	5.91	7%
(b) > 20 kW & ≤50 kW		8.70	11.63	34%	9.04	4%
(c) Above 50 kW		10.86	13.59	25%	11.06	2%
LT III - Public Water Works		2.19	2.23	2%	2.27	4%
LT IV - Agriculture		1.81	1.79	-1%	1.81	0%
LT V - Industrial		4.28	5.94	39%	4.34	1%
LT VI - Street Lighting		3.06	4.18	37%	3.20	4%
LT V III - Temporary Others		12.63	16.96	34%	11.14	-12%
HT Category						
HT I - Industry (Express Feeder)	4.35	4.99	7.17	44%	5.40	8%
HT I - Industry (Non-Express Feeder)		4.74	6.48	37%	5.06	7%
HT I - Seasonal Industry		6.06	9.67	60%	6.41	6%
HT II - Commercial		8.00	10.54	32%	7.76	-3%
HT III - Railways		5.04	6.52	29%	5.35	6%
HT IV - Public Water Works		3.64	3.43	-6%	3.73	2%
HT V - Agriculture		2.08	2.08	0%	2.15	3%
HT VI - Bulk Supply - Residential		3.67	8.20	123%	3.96	8%
HT VI - Bulk Supply - Commercial		5.76	11.07	92%	6.16	7%
HT VII - MPECS		2.55	2.55	0%	2.76	8%

The prevailing cross-subsidy and the reduction in cross-subsidy considered by the Commission are given in the Table below:

Category	Average Cost of Supply (Rs./unit)	Ratio of Average Billing Rate to Average Cost of Supply (%)		
		APR Order for FY08	Existing Tariff to current ACOS	Revised Tariff to current ACOS
LT Category				
LT I - Domestic	4.35	104%	95%	96%
LT II - Non-Domestic or Commercial		173%	139%	148%
LT III - Public Water Works		47%	50%	52%
LT IV - Agriculture		39%	42%	42%
LT V - Industrial		114%	98%	100%
LT VI - Street Lighting		77%	70%	74%
LT V III - Temporary Others		335%	291%	256%
HT Category				
HT I - Industry (Express Feeder)	4.35	127%	115%	124%
HT I - Industry (Non-Express Feeder)		123%	109%	116%
HT I - Seasonal Industry		155%	139%	147%
HT II - Commercial			184%	179%
HT III - Railways		130%	116%	123%
HT IV - Public Water Works		94%	84%	86%
HT V - Agriculture		49%	48%	49%
HT VI - Bulk Supply - Residential		91%	84%	91%
HT VI - Bulk Supply - Commercial		150%	132%	142%
HT VII - MPECS		62%	59%	63%

In the above Tables,

- (a) 'Existing Tariff' refers to the tariff approved by the Commission in the APR Order dated June 20, 2008
- (b) 'Revised Tariff' refers to the tariff approved by the Commission in the present APR Order
- (c) Ratio of Average Billing Rate (ABR) to Average Cost of Supply (ACOS)
 - i) 'APR Order for FY08' refers to the ratio of ABR to ACOS as envisaged in the APR Order for FY 2007-08
 - ii) 'Existing Tariff to current ACOS' refers to the ratio of ABR approved in the APR Order for FY 2007-08 to the ACOS approved in the present APR Order, i.e., Rs. 4.35 per kWh
 - iii) 'Revised Tariff to current ACOS' refers to the ratio of ABR approved in this APR Order for FY 2008-09 to the ACOS approved in the present APR Order, i.e., Rs. 4.35 per kWh