

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

**ORDER**

**Dated: 23<sup>rd</sup> December, 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 and until next revision, on 1<sup>st</sup> July, 2004 in Case No. 18 of 2003. Thereafter, under affidavit dated 4<sup>th</sup> August, 2004, REL sought review of the Order on several counts. On the Commission's direction, REL submitted a further Petition on 24<sup>th</sup> August, 2004, clarifying in respect of each point raised, 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 (mostly 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 that they were faced with a tariff shock as a result of the revision and rationalisation undertaken by the Commission. REL also submitted a letter dated 15<sup>th</sup> September, 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 Maharashtra State Electricity Board (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. In response to the Notice for hearing, Prayas (authorised consumer representative organisation) submitted in their letter dated 20<sup>th</sup> September, 2004 that the Petition essentially seeks reversal of many of the Commission's key decisions, which would be against consumer interest, e.g. automatic approval of all capital expenditure proposed by REL in their ARR and modifying the normative debt-equity ratio to 50:50. Prayas have also contended that adequate reasons have not been given for justifying admission and that the Petition amounts to an appeal against the Commission's Order, for which the EA, 2003 stipulates a separate process and forum. Prayas have, therefore, opposed admission.

5. The Petition was heard for admission on 20<sup>th</sup> September, 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 to 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 bills of many consumers in this category have risen very sharply. 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.

6. 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 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 and flowing from it, 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.

7. As directed by the Commission, REL submitted an additional affidavit on 24<sup>th</sup> September, 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 29<sup>th</sup> September, 2004.

8. 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 Tariff 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 with the Sanctioned/Connected Load for billing purposes.

9. Considering the urgent need to mitigate the inadvertent tariff shock to this category of consumers and to grant them immediate relief, the Commission decided to address the issue of the LTP-2 tariff through an Interim Order issued on 30<sup>th</sup> September, 2004, pending its final Order on the Review Petition.



10. The Interim Order stated that a 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. Connected Load is often an area of dispute between the licensee and the consumer, and any tariff design based only on Connected Load is inefficient since it does not allow the consumer much scope to optimise his fixed expenses. 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 aggravated due to the widely fluctuating load usage pattern of many such consumers from month to 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., equal to or more than 60%).

11. As pointed out by the Commission in its Interim Order, the concept of Contract Demand has been prevalent for a long time in the case of MSEB and Tata Power Company. The Commission again directs REL to educate its 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. In this context, the Commission had explained in its Interim Order the meaning of Sanctioned Load, Connected Load, Load Factor, Contract Demand and Maximum Demand, which is 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 or other written communication;*

*“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.*

12. As the Interim Order states, 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 which has to be paid whenever Contract Demand is exceeded..

13. Through its Interim Order, after careful consideration and in order to give immediate relief to many affected consumers in a manner consistent with its stated principles, the Commission decided to modify the LTP-1 and LTP-2 tariff categories as follows, all other stipulations of the principal Tariff Order 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

The Commission believes that the tariff revised as above has the advantage of being easy to implement as well as bringing about greater parity 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. In its Interim Order, the Commission had applied the above modification from 1<sup>st</sup> October, 2004, i.e. prospectively.

14. At the hearings, REL had agreed that the impact of the above change on REL could be taken up through the truing up process at the time of filing of the next Tariff Petition. In order to assess its implications, REL were directed to submit certain data regarding the consumption, Connected Load, Contract Demand and revenue billed for LTP-1, LTP-2 and LTP-3 categories, over the period April 2004 to June 2004, and after the Tariff Order dated 1<sup>st</sup> July, 2004.

15. Vide letter dated 20<sup>th</sup> October, 2004, REL have given the relevant data for FY03 and FY04, and the period from April to August 2004, of which data for the two months of July and August are based on the revised tariffs. The Commission has analysed the data to assess the actual impact of the tariff revision effected on 1<sup>st</sup> July, 2004, vis-à-vis the impact estimated by the Commission while issuing the Tariff Order. The present REL data has several inconsistencies with the data submitted in the past for the years FY03 and FY04 on which the Commission had projected the figures for FY05. The inconsistencies include:

- The Connected Load for LTP categories combined for July and August, 2004 is substantially higher than that given earlier for FY03 and FY04.
- The revenue against fixed charges for LTP-1 category for July and August, 2004 appears to be very low as compared to the revenue projected by the Commission in the Tariff Order.
- The revenue from Demand Charges from LTP-3 category indicated by REL is not commensurate with the Contract Demand indicated by REL for this category

REL are directed to clarify these discrepancies at the time of submitting their next Tariff Petition.



16. The Commission has also observed that the actual revenue earned by REL from the LTP-2 category over the two-month period of July and August 2004 is much higher than that estimated by the Commission in the Tariff Order for the same period. The Commission is of the view that the method adopted by REL for determining the Contract Demand or selecting a proxy for Contract Demand on which Demand Charges are applicable and the lack of awareness on the part of the consumers, coupled with the poor data quality and the tariff revision has resulted in the tariff shock to this section of consumers, which was never the intention of the Commission. The Commission had directed REL, vide letter dated 12<sup>th</sup> August, 2004, to communicate to consumers through the media and monthly energy bills the need to register their Contract Demand. Even so, it seems that many consumers have yet to register their Contract Demand. The Commission is of the view that the changes initiated by it to move towards the Contract Demand regime, though desirable, have to be implemented in a phased manner, after ensuring that the consumers are aware of the implications of Contract Demand, are better able to fix it at an optimum level taking into account the relevant factors and the nature of their business, and accordingly register the same with REL. The Commission again directs REL to ensure that adequate publicity is given to the concept of Contract Demand and should take the initiative to ensure that the consumers register their Contract Demand with them.

17. In the course of these proceedings, it has become clear that there are two types of LT industrial consumers, viz., erstwhile LTP-3 consumers in whose case MD meters had already been installed before the Tariff Order, and other LT industrial consumers whose MD meters were in the process of being installed. In both cases, many consumers have not registered their Contract Demand with REL, since it was not relevant for tariff purposes in the past. Now it has become necessary for all such consumers to register their desired level of Contract Demand with REL. However, in the interim, taking into account the various scenarios prevailing, the Demand Charges for the present LTP-2 consumers (i.e. above 50 HP, as per the recategorisation effected by the Interim Order dated 30<sup>th</sup> September, 2004) will be applicable on the Billing Demand defined as follows:

*The Monthly Billing Demand for LTP-2 consumers will be the higher of the following:*

- Actual Maximum Demand recorded in the month from 0600 hours to 2200 hours; or
- 50% of the Sanctioned Load/Connected Load/Contract Demand, as the case may be.

Keeping in view the considerations set out at para 16 above, this definition of Billing Demand will apply with retrospective effect from 1<sup>st</sup> July, 2004, but will be valid only until 31<sup>st</sup> March, 2005. After that date, the definition contained in the original Tariff Order shall operate again, and Demand Charges for those LTP-2 consumers who have not registered their Contract Demand will be applied on the basis of their Connected Load.

18. In its Interim Order dated 30<sup>th</sup> September, 2004, the Commission had addressed the inadvertent tariff shock to the new LTP-2 category consumers through the recategorisation set out at para 13 above as an emergent measure pending this final Order, and applied it with prospective effect from 1<sup>st</sup> October, 2004, The Commission does not normally revise tariffs with retrospective effect. However, in this case, having found that there has been an inadvertent and unintended tariff shock because of a combination of factors, going against its basic philosophy of tariff fixation, the Commission has now decided to apply the recategorisation and consequent change in tariff at para 13, earlier effected prospectively, with retrospective effect from 1.7.2004 (i.e., the date of the original Tariff Order). The excess billing and recovery from the concerned consumers arising from such retrospective application should be refunded to them by REL by adjustment through energy bills or by other means by the end of March, 2005, along with refunds arising from the change in billing demand definition as at para 17 above. However, no interest would be payable by REL. The Commission believes that, considering the totality of circumstances and the ground realities, this dispensation is fair and equitable to all concerned, and also takes into account the time



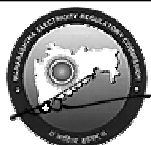
required for computing the amounts involved. The impact on REL would be assessed and truing up resorted to at the time of the next revision

19. In its Tariff Order dated 1<sup>st</sup> July, 2004, while introducing the two-part tariff (clause 13, page 7), the Commission had directed that MD meters be installed for all consumers with sanctioned load of 20 kW or more (clause 19, page 8). The Commission also stipulated (Annexure 5, and approved Tariff Booklet) that LF-2 consumers with sanctioned load of 20 kW above, or with monthly consumption exceeding 3000 kWh, would be governed by the LTP-2 (industrial) tariff once MD meters are installed. However, the LTP-2 category has been redefined through the interim Order dated 30<sup>th</sup> September, 2004 to include only consumers with sanctioned load above 50 HP, and retrospective effect has now been given to this modification. Therefore, the Commission has also decided now to similarly modify this provision regarding applicability of LTP-2 tariff to LF-2 consumers in order to make it consistent. Accordingly, LF-2 consumers with sanctioned load above 37.5 kW (50 HP) or monthly consumption exceeding 5625 kWh would be billed at LTP-2 rates. This modification will also be applicable with retrospective effect from 1<sup>st</sup> July, 2004, and the change in billing demand definition and conditions thereof at para 17 above will also be applicable to them. In this case also, the excess billing and recovery arising from these modifications will be refunded by REL through energy bills or by other means, without interest, by 31<sup>st</sup> March, 2005. In may be noted, however, that there is no change in the Commission's directions with regard to installation of MD meters for all consumers with sanctioned load of 20 kW or more, which would also generate a data base enabling the Commission to consider several options in future tariff determinations, such as ToD tariff, incentives, etc.

20. Thus, as a result of the foregoing, the modifications in tariff and categorisation effected by this Order are as follows:

**(A) LTP-1/2**

Tariff as per Order dated 1.7.2004			Revised Tariff w.e.f. 1.7.2004 (this Order)		
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



**(B) LF-2**

Tariff as per Order dated 1.7.2004			Revised Tariff w.e.f. 1.7.2004 (this Order)		
Category / Slab of Consumption	Fixed Charges	Energy Charges	Category	Fixed Charges	Energy Charges
	(Rs./Month)	(paise/kWh)		(Rs./Month)	(paise/kWh)
<b>LF-2 (0 to 15 HP/ 20 kW)</b>			<b>LF-2 (0 to 50 HP/ 37.5 kW)</b>		
0-300 units	150 per connection. Additional Fixed Charge of Rs. 150 per 10 kW load or part thereof above 10 kW load shall be payable).	400		Rs.150 per connection (Additional Fixed Charge of Rs. 150 per 10 kW load or part thereof above 10 kW load shall be payable).	400
301-1000 units		450			450
>1000 units (only balance units)		500			500
<b>LF-2 (above 15 HP/20 kW)</b>			<b>LF-2 (above 50 HP/ 37.5 kW)</b>		
With MD meter and / or monthly consumption over 3000 units (kWh) per month	Rs.374 per kVA	300	With MD meter and / or monthly consumption over 5625 units (kWh) per month	Rs.374 per kVA	300

**(C) MONTHLY BILLING DEMAND**

For LTP-2 consumers as recategorised above, and for LF-2 consumers above 50 HP/ 37.5 kW: Actual Maximum Demand recorded in the month from 0600 to 2200 hours, or 50% of the Sanctioned Load/Connected Load/Contract Demand, as the case may be, with retrospective effect from 1<sup>st</sup> July, 2004, and upto 31<sup>st</sup> March, 2005.

21. At the hearing on 20<sup>th</sup> September, 2004, the Commission had made it clear that it was not admitting the Petition to the extent of the other issues raised by REL, inasmuch as they were outside the scope of review and did not meet the test of Regulation 85 of the Conduct of Business Regulations (cited at para 2 above). They may be agitated, if at all, in appeal before the competent forum as provided by law. These other issues are addressed below to the extent that any clarification is necessary or relevant.

**Capital expenditure in FY04 and FY05**

22. REL have stated that the entire capital expenditure in FY04 should be allowed since it has been incurred before the the Tariff Order was issued, on the same reasoning as applied by the Commission for allowing the capital expenditure incurred upto FY03, and that the Detailed Project Reports (DPR) for the remaining expenditure of Rs. 43.07 crore should not be required to be submitted.

23. REL have also stated that, although the Commission had asked them to submit CEA clearances for capital investment undertaken upto FY03, such clearances are not available since they were not required to be obtained from CEA.



24. The Commission cannot accept the argument that the capital expenditure incurred in FY04 should be allowed without scrutiny of DPRs simply because it has already been incurred. The Petition for FY04 was before the Commission, and the Commission has given its ruling on FY04 alongwith the tariff determination for FY05. Further, the Commission has not disallowed the expenditure of Rs. 43.07 crore, but directed REL to submit the DPRs so that its prudence and cost-benefit can be evaluated. However, the Commission accepts REL's contention regarding the non-availability of CEA clearances for past investments.

### **Normative Debt-Equity Ratio**

25. REL have submitted that retrospective application of a normative debt-equity ratio of 70:30 for capital investments made in FY04 prejudices the interest of their shareholders, since REL have funded the entire capital expenditure through equity in the absence of any clear-cut directives to fund it on a normative debt-equity basis. REL have stated that this is an error apparent on the face of the record justifying review in terms of Regulation 85.

26. The Commission does not accept REL's contention, since the Petition for FY04 was before it, and the Commission has given its ruling on FY04 along with the tariff determination for FY05. Moreover, the Commission has clearly explained the rationale for applying a normative debt-equity ratio of 70:30 in its Tariff Order dated 1<sup>st</sup> July, 2004. Essentially REL are seeking a substantive modification in the Order and are questioning the fundamental basis of the tariff determination and the considered judgement of the Commission, which is outside the scope of review.

### **Employee Expenses**

27. REL have submitted that there is some mistake or error apparent on the face of the record in the computations made by the Commission while determining the employee expenses for FY05. REL have stated that the level of employee expenses allowed by the Commission is inadequate and needs to be reconsidered as a matter of review of its Order.

28. REL have stated that the actual employee expenses of Rs. 168 crore in FY 04 included Rs. 30 crore of wage arrears for FY03. Thus, the actual expense on account of wages in FY 04 was Rs. 138 crore, which is projected to increase to Rs. 157 crore in FY05, as against the Commission's approval of Rs. 126 crore. REL have also sought that the entire VRS expenditure should be amortised in FY 05 itself, rather than spreading it over three years.

29. The Commission had relied on the various data and evidence placed before it by REL while determining the reasonable and justified level of employee expenses to be allowed for FY05. The Commission had also considered the actual wage expenses in FY 04 as Rs. 138 crore and the arrears towards wages in FY03 as Rs. 32 crore, in line with REL's submission above. However, the difference between REL's projected employee expenditure and the level of expenditure permitted by the Commission has arisen because REL have not considered the impact of reduction in the number of employees due to the VRS while estimating the employee expenditure. REL had projected that the number of unionized staff would reduce by a thousand in FY05 due to the VRS. If one considers the impact of this reduction in the number of employees, and the fact that the salary revision has already been accounted for in the actual employee expenditure in FY04, the effective increase in employee expenditure sought by REL in FY 05 with respect to the employee expenditure in FY04 would amount to 27%, which is very high.

30. In its Tariff Order, the Commission had given a detailed explanation of the methodology used to determine the allowable employee expenditure, as follows:



*“The Commission has calculated the cost per employee for the past years based on data submitted by BSES, and the 4-year CAGR which is equivalent to the period of one wage settlement. For FY 2004-05, the Commission has estimated the employee expenditure based on the expected number of employees (after VRS) and the projected per employee cost, which have been projected based on the 4-year CAGR.”*

As regards the VRS expenditure, the Tariff Order states that:

*“The normal accounting practice in case of VRS is to amortize the expense over three years. The Commission has accordingly allowed the VRS expenditure and has amortized the expense over three years, starting from FY 2004-05 and will provide for holding cost in future years.”*

Thus, the Commission had taken into account the impact of the wage revision, the cost of the VRS, the expected reduction in number of employees due to the VRS, and the projected per employee cost, while determining the employee expenses allowable for FY05. REL's request for review on this matter is substantive and fundamentally questions the basis of tariff determination and the considered judgement of the Commission, and hence does not fall within the ambit of review. In any case, in the next tariff determination exercise, actual expenditure on employees will be known for past years. These variations will be dealt with by trueing up.

### **Provision for Doubtful Debts**

31. REL have submitted that the Commission has made a computation error while determining the provision for doubtful debts for FY04 and FY05. REL have claimed that the correct level of provisioning on the basis of 5% of receivables would amount to Rs. 12 crore for both the years.

32. The Commission had relied on the various data and evidence placed before it by REL while determining the reasonable and justified level of provisioning for doubtful debts to be allowed for FY04 and FY05. Unfortunately, the data submitted by REL at different points in time was inconsistent and contradictory, and the Commission had to settle on the data that was most representative, in its opinion, while estimating the level of provisioning. In the absence of any reliable data on receivables at the time of the Tariff Order, the Commission had relied on the data on receivables as considered in the Financial Model submitted by REL for FY04 and FY05, wherein the amount of receivables outstanding was indicated as Rs. 101 crore and Rs. 107 crore in FY 04 and FY 05, respectively. Accordingly, the Commission had considered these numbers for determining the provision for bad debts. However, REL have now submitted data stating that the arrears are higher, at Rs. 240 crore, and hence the provisioning for bad debts should also be higher. The Commission had made a reference to the poor quality of data submitted by REL in Section 8, page 59 of the Tariff Order, as follows:

*“The Commission would like to add here that the quality of data submitted to the Commission by BSES in its various submissions has often been deficient in many respects, and suffers from several inconsistencies. BSES has been submitting inconsistent data to the Commission and does not seem to have verified the data before submission to the Commission, despite the fact that this data is being submitted on affidavit. Despite repeated queries by the Commission, several of these discrepancies could not be resolved. The Commission has had to rely on selected sets of data submitted by BSES, which had detailed back-up, while estimating the revenue and expenditure of BSES.*

*The Commission is unhappy with BSES' attitude in this regard, and directs BSES to verify the data/information before submission to the Commission and to avoid submission of such inconsistent data to the Commission in future”.*



In view of the above, the Commission does not agree that it has made any computation error while determining the provisioning for doubtful debts.

### **Revenue Restatement**

33. In its Tariff Order dated 1<sup>st</sup> July, 2004, the Commission had directed that “*BSES cannot liquidate its reserves to levels beyond the levels considered by the Commission to meet its funding requirement.*” REL have submitted that, in its Order dated 20<sup>th</sup> July, 2004, in the matter of rebates given by REL to selected consumer categories and consumers, the Commission had held that the loss in revenue due to these rebates would have to be borne by BSES as they had not been approved, as required, by the Commission. Hence REL have urged the Commission to permit them to compensate themselves for the impugned rebates by drawing from the reserve and contingency reserves.

34. It is the responsibility of REL’s statutory auditor to ensure that REL’s books of accounts are in compliance with the Companies Act, 1956 and various Accounting Standards issued by the Institute of Chartered Accountants of India.

35. The Commission is of the view that its method of treating the income lost due to the rebates as notional income and setting this off against the additional standby charges payable by REL is a perfectly valid regulatory treatment of the matter. REL should ensure that its future Petitions for approval of ARR and Tariff are submitted based on the restatements carried out as per the Tariff Order dated 1<sup>st</sup> July, 2004.

### **Tariff Categorization**

36. REL have urged the Commission to retain the earlier categorization of LTP-1, wherein even lift, water pump and fire fighting equipment, etc. upto 15 HP, and non- industrial load upto 20 kW were included under LTP-1, considering the fact that they would face a significant loss in revenue. The Commission does not find any merit in this request, which also seeks a substantive modification outside the scope of review. REL have also not submitted any supporting data regarding significant loss of revenue on this count. Further, the Commission’s categorization of such non-industrial motive load consumers is consistent with the approach adopted by it in the case of MSEB. Hence, REL’s request for review on this count is rejected.

### **Prompt Payment Incentive**

37. REL have submitted that the prompt payment incentive should be extended to the residential category also since delayed payment charges are applicable to all categories, including residential. The change sought by REL does not meet the parameters for review. Although the Commission believes that in principle there is merit in the suggestion, it had taken a conscious decision in this regard keeping in view the profile and circumstances of MSEB and other Licensees also. However, the Commission would be inclined to revisit the matter of extending the incentive to residential consumers also in future tariff determinations..

### **Interest rate on arrears**

38. REL have submitted that the slab-wise interest rate on arrears prescribed by the Commission is complicated, and makes it difficult for REL to explain to consumers the basis of calculation of total dues spread over a long period owing to differing rates applicable for different periods. REL have urged the Commission to standardize the interest rate applicable on arrears irrespective of time period, at say 15% p.a., for easy comprehension of arrears and interest.



39. The system of differential interest rates across time periods has been introduced by the Commission some time ago in respect of MSEB in the rest of the State, so as to provide an escalating disincentive for prolonged non-payment of arrears by consumers. The Commission does not agree that this method of computing arrears is complicated or cannot be understood. MSEB have been following this system for quite some time without difficulty, and REL should not have any problems in doing the same..

40. With this Order, the Commission disposes of the Petition filed by REL seeking review of its Order dated 1<sup>st</sup> July, 2004 on various counts.

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(Pramod Deo)  
Member



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

