

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 115 of 2009

In the matter of
Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)'s Petition for
continuation of Billing as per existing Tariff Order dated 17.08.2009 upto the issue of new
Tariff Order

Shri. V. P. Raja, Chairman
Shri. S. B. Kulkarni, Member
Shri. V.L. Sonavane, Member

ORDER

Dated: March 31, 2010

The Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) submitted a Petition on March 10, 2010, for continuation of billing as per the existing Tariff Order dated August 17, 2009 in Case No. 116 of 2008, upto the issue of new Tariff Order.

2. MSEDCL, in its Petition, prayed as under:

“

- (i) *MSEDCL may please be allowed to continue to bill the consumers from 1st April 2010, as per the tariff Order dated 17th August 2009 to be read with Order dated 03.12.2009 in Case No. 61 of 2009 i.e. to levy the additional charge @ 12 paise per unit (11.76 paise per unit rounded off);*
- (ii) *MSEDCL may please be permitted to continue such practice till the Hon'ble Commission determines the tariff for FY 2010-11 and such tariffs come into force;*



(iii)MSEDCL may please be permitted to carry out adjustments as may be necessary on account of under / over recovery due to continuation of existing tariff till new tariff come into force.”

3. MSEDCL, in its Petition, submitted as under:

- i) MSEDCL filed the Petition on February 18, 2010 for approval of Annual Performance Review (APR) for FY 2009-10, truing up for FY 2008-09, ARR and tariff determination for FY 2010-11 before the Commission under the provisions of Electricity Act, 2003 and MERC (Terms and Conditions of Tariff) Regulations, 2005.
- ii) The Commission scheduled the Technical Validation Session on MSEDCL's APR Petition on March 17, 2010.
- iii) The Commission, in its Order in Case No.61 of 2009 dated December 3, 2009, in the matter of recovery of Additional Capacity Charge of Ratnagiri Gas and Power Pvt. Ltd. (RGPPL), has permitted MSEDCL to recover the impact of the Appellate Tribunal for Electricity (ATE) Judgment dated August 25, 2009 in Interlocutory Application No. 243 of 2009, by way of Additional Charge to the extent of Rs. 785.90 crore for FY 2009-10 in the remaining months of the year, i.e., December 2009 to March 2010, resulting in levy of Additional Charge of 35.28 Paise/kWh to all consumers.
- iv) MSEDCL will be required to pay the RGPPL charges as per the interim rate specified by ATE in the said Judgment, i.e., 442 paise/kWh for the period from April 2010 also, till such time, the ATE gives its final Judgment in the matter. MSEDCL requested the Commission to allow MSEDCL to recover from April 2010 onwards the said Additional Charge at the rate of one-third of the Additional Charge approved by the Commission, since the recovery will now be spread over a period of 12 months (i.e., 11.76 paise/kWh) from all consumers of MSEDCL as approved by the Commission in its Order in Case No. 61 of 2009.
- v) In the present circumstances, the determination and implementation of tariff for FY 2010-11 may not be possible before March 31, 2010 and therefore, MSEDCL requested the Commission to permit charging of category-wise tariff to its consumers beyond March 31, 2010 based on the tariff structure as determined by the Commission in its Tariff Order in Case No. 116 of 2008 dated August 17, 2009 and further permit levy of the Additional Charge of 12 paise/kWh (11.76 Paise per unit rounded off) in accordance with Commission's Order in Case No.61 of 2009 dated December 3, 2009 till such time the new tariff for FY 2010-11 comes into force.



4. The Commission, vide its Notice dated March 17, 2010, scheduled a hearing in the matter on March 25, 2010, and directed MSEDCL to serve a copy of the Petition to the Consumer Representatives authorised on a standing basis under Section 94 of the EA 2003 to represent the interests of consumers in the proceedings before the Commission.

5. During the hearing held on March 25, 2010, Shri. Abhijit Deshpande, Executive Director (Commercial) appeared on behalf of MSEDCL, and reiterated the submissions made in the petition.

6. In view of the submissions made, the Commission hereby rules as under:

(i) MSEDCL is authorised to charge only that tariff, which is determined and approved by the Commission in accordance with the provisions under Part VII (Tariff) of the Electricity Act, 2003 (“EA 2003”).

(ii) In the Tariff Order dated August 17, 2009, the Commission had stipulated the applicability of validity of the Order as under:

"The revised tariffs will be applicable from August 1, 2009"

(iii) Thus, no end date has been stipulated for the applicability of the tariffs determined under the above-said Tariff Order, and these tariffs will continue to be in force till such time as the revised tariffs are determined by the Commission. Accordingly, there is no requirement to issue any further order to extend the validity of the base tariffs determined by the Commission in the Tariff Order dated August 17, 2009. However, there is a need to extend the validity of the Additional Charge approved by the Commission in its Order in Case No. 61 of 2009. The relevant portion of the Commission’s above-said Order is reproduced as under:

***“Thus, the Commission permits MSEDCL to recover the impact of the ATE Order dated August 25, 2009 in Interlocutory Application No. 243 of 2009 by way of Additional Charge to the extent of Rs. 785.90 Crore for FY 2009-10 in the remaining months of the year, i.e., December 2009 to March 2010 @ 35.28 paise/kWh to be billed to consumers of MSEDCL.*”**

MSEDCL will have to continue to pay RGPPL at the above rates, till such time as the ATE issues its final Judgment in this regard, after which, either the same rates may continue, or some positive or negative adjustment may have to be made. Since the base tariffs approved by the Commission in its Tariff Order dated August 17, 2009, do not



provide for recovery of this expense, MSEDCL will have to be allowed to recover the impact of the same from the consumers in FY 2010-11.

- (iv) The impact of the ATE Judgment on a monthly basis for FY 2010-11 would work out to 1/3rd of the above approved charge of 35.28 paise/kWh, i.e., 11.76 paise/kWh, since the amount that was earlier recovered over a 4-month period will now have to be recovered over a 12-month period.
- (v) **Accordingly, the Tariff Order dated August 17, 2009 in Case No. 116 of 2008 is valid and applicable till the Commission determines revised tariffs. However, the Order dated December 3, 2009 in Case No. 61 of 2009 stands extended till the revised tariffs are determined for FY 2010-11 in Case No. 111 of 2009. An Additional Charge @ 11.76 paise per kWh will be levied in addition to the tariffs applicable as per Tariff Order dated August 17, 2009, till the revised tariffs are determined for FY 2010-11 under the APR framework and Order issued thereunder in Case No. 111 of 2009, subject to final adjustment on account of the final Judgment of the ATE in this regard.** Under-recovery or over-recovery, vis-à-vis the approved revenue requirement for FY 2010-11, if any, or financial implications and adjustments, caused solely on account of the continuance of the existing tariffs for the period till the revised tariffs are determined for the period under FY 2010-11 under the APR framework shall be trued up subsequently.
- (vi) While submitting the data for truing up, MSEDCL should submit revenue data separately for the period from April 1, 2010 till tariffs are determined for the balance period for FY 2010-11.

Ordered accordingly.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(K.N Khawarey)
Secretary, MERC