

ORDER

A. The Commission has received tariff petitions from utilities located in this State (other than those belonging to Central Govt. and D.V.C.) for which hearings have taken place during February, 2003, and March, 2003. During the course of hearings a number of consumers, consumers' organizations, etc., dealt with the issue of retrospective effect of the tariff and hardship it causes to Industry and commercial organisations that have meanwhile sold the goods/services, and to other consumers who because of the time lag lost the opportunity to plan their consumption of electricity based on tariff. Some of the utilities, in course of the hearings, pleaded for interim orders if final orders were to take time. However, some of the objectors (consumers) have objected to the interim order sought by the utilities.

B. There indeed are problems for a utility to recover arrears which arise consequent upon a tariff revision from retrospective date - when such a revision results in higher tariff - and that too in installments. This not only complicates the billing but may also create cash flow problems for a utility. The cash flow problem not only affects the utility adversely, but may well go against the interest of the consumers too in the longer run.

C. The current tariff determination exercise is likely to take some more time considering various constraints and also keeping in view the stay order passed by the Hon'ble Calcutta High Court in the matter relating to the Commission's interpretation of cross subsidy as contained in its order dt. 3.10.2002 in the case of WBERC-Vs-CESC (C.A. No. 4037 of 2002). The hearing of the case by Hon'ble High Court is to start in the last week of April 2003. It is not possible to predict when the verdict from the Hon'ble High Court will be available. That apart, if in the verdict of the Hon'ble High Court the decision of the Commission is held to be incorrect, then it will substantially affect the tariff as may be applicable to various group of consumers for all the utilities except WBPDCCL.

D. The Commission has received the tariff petition of DPSCL for the year 2003-04 on 31.12.2002. Thereafter, newspaper notification was given on 10.01.2003 seeking objections and/or comments. Objections were perused by the Commission along with the replies of the DPSCL in respect of the said objections. Commission has heard the consumers, their objections as well as the replies and contentions of utility, i.e., DPSCL. After careful preliminary examination of the tariff petition, objections by the consumers, rejoinders by the utility, objections and replies during the hearing and also the replies for information, sought by the Commission, Commission is of prima facie opinion that the tariff of the DPSCL for the year 2003-04 would justifiably undergo some increase and Commission is also of the opinion that having considered the balance of convenience and inconvenience, it is a fit case for passing an interim order allowing some hike in tariff of DPSCL because of the likely delay in determining the tariff finally. The Commission prima facie also feels that ultimate hike in the tariff of DPSCL for 2003-04 is not likely to be less than the amount being allowed under the present interim order.

E. Under Regulation 46 of the CBR, the Commission has power of passing such interim orders including ex-parte interim order as it may consider appropriate to protect the interest of any of the parties to the proceedings. The Hon'ble Supreme Court in its order dt. 3.10.2002 in the case of WBERC-Vs-CESC has already opined that it is open to the Commission to exercise this power in the event of there being any delay in determination of tariff by it.

F. Because of the aforementioned facts, the Commission is of the view that to protect the interest of both the consumers and the utilities as far as practicable under the given circumstances, prima facie it is a fit case where an interim order is called for by exercising its power under Regulation 46 of the CBR to the utilities in whose cases the hearings for tariff revision/s for 2002-03/2003-04 have been conducted by the Commission. The Commission has also noted that any increase in tariff arising out of any interim order in favour of the WBPDCCL and DPSCL will further increase the projected expenditure and tariff of WBSEB and any similar interim order granted to WBSEB will increase the projected expenditure and tariff of CESC. The same has been kept in view while considering interim order to the extent applicable.

G. Therefore, the Commission, in exercise of its power under Regulation 46 of CBR, grants the following interim order on the tariff petition of the DPSCL for the year 2003-04.

There will be an adhoc increase of Re.0.06 (Paise six)/kwh on the energy actually consumed by all category of consumers over the rates fixed by the Commission for the year 2002-03.

The following conditions will however be applicable : -

- 1) The above interim order will be applicable from 1.04.2003 for billing month for April 2003 for all consumers and will be applicable only on quantum of energy actually consumed by the consumer.
- 2) The interim order is in addition to all the existing rates, charges, rebates, penalty, incentives, etc. as has been approved by the Commission.
- 3) The interim order will not be considered or taken in account for giving any incentive, rebate, concession, etc. or for the purpose of levying any penalty/extra charge/rate, etc. except as specifically permitted herein. The interim order will be taken in for levying charge on account of pilferage/theft of power.
- 4) The interim increase as granted by this order to the utility will be adjusted, recovered or refunded, as the case may be, against the final tariff for 2003-04 as may be fixed by the Commission for that utility and in the stated manner or as may be decided by the Commission at any time at its sole discretion.
- 5) The interim order will be shown separately by the utility in the bill as such.
- 6) The notice for sanction of interim order by the Commission will be published in the newspaper keeping in view the provisions of the regulations and the gist of the advertisement will be put up to the Commission for approval within 5 days of the date of the order and will be published within 5 days of the approval.
- 7) All the other existing term and conditions as has been approved by the Commission remains unchanged except to the extent specifically amended by this order.

Sd/-23/4/2003 (N.C. Roy)
Member (Tech.)

Sd/-23/4/2003 (A.K. Jain)
Member (F&A).

Sd/-23/4/2003 (S.N. Ghosh)
Chairperson.

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