

**Interim Order on Tariff Petition of DPL for the year 2003-04.****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 WBPDC.

D. The Commission has received the tariff petition of DPL for the year 2003-04 on 31.12.2002. Thereafter, newspaper notification was given on 10.01.2003 seeking objections and/or comments including for Tariff Petition for 2002-03. Objections were perused by the Commission along with the replies of the DPL in respect of the said objections. Commission has heard the consumers, their objections as well as the replies and contentions of utility, i.e., DPL. 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 DPL for the year 2003-04 would justifiably undergo some increase.

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. The Commission also noted that the DPL has not implemented the tariff orders passed by the Commission dt. 21.09.2001 on the plea that it has filed appeal in the Hon'ble Calcutta High Court even though the court against the tariff orders of the Commission has granted no stay. Consumers have protested against excess charging of tariff by DPL and raised objections also in the hearing. The court has, however, stayed Penalty proceedings against DPL. Since DPL is already charging tariff more than the approved by the Commission, as earlier order of the Commission has not been implemented, the Commission is not granting any interim order to DPL.

G. Therefore, the Commission, in exercise of its power under Regulation 46 of CBR, is not granting any interim order on the tariff petition of the DPL for the year 2003-04.

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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