BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION,
LUCKNOW

IN THE MATTER OF:


AND

IN THE MATTER OF:

1. Uttar Pradesh Power Corporation Limited, Lucknow (UPPCL)
2. MadhyanchalVidyutVitran Nigam Limited, Lucknow (MVVNL)
3. PoorvanchalVidyutVitran Nigam Limited, Varanasi (PVVNL)
4. DakshinanchalVidyutVitran Nigam Limited, Agra (DVVNL)
5. PaschimanchalVidyutVitran Nigam Limited, Meerut (PVVNL)
6. Kanpur Electricity Supply Company Limited, Kanpur(KESCO)

ORDER

The Commission issued Tariff Orders for FY 2015-16 for DVVNL, PVVNL, PuVVNL, MVVNL, KESCO, NPCL& UPPTCL on June 18, 2015. In the said Tariff Orders of the Distribution Licensees some inadvertent omissions / mentions and certain typographical errors were noticed by the Commission, which were rectified and replaced by issuance of the Corrigendum / Clarification No. 1 to Tariff Orders for FY 2015-16 of all the Distribution Licensees of the State of Uttar Pradesh dated August 13, 2015.

In the above context UPPCL, DVVNL, PVVNL, PuVVNL, MVVNL, KESCO have filed a combined Review Petition against the Commission’s Corrigendum / Clarification No. 1 dated August 13, 2015, to Tariff Orders dated June 18, 2015 vide letter dated September 1, 2015.

In the said Review Petition, the Petitioner has discussed the tariff filing procedure and its compliance of the Tariff Orders dated June 18, 2015 which are facts or matter of record but has raised objection on the correction of the Billable Load/Demand in the Corrigendum / Clarification No. 1 dated August 13, 2015 to Tariff Orders dated June 18, 2015 for FY 2015-16 of all the Distribution Licensees of the State of Uttar Pradesh. The Petitioner has prayed to the Commission to restore the original clause as mentioned in the Tariff Orders dated June 18, 2015.
Petitioners’ Submissions:

The Petitioner has submitted that the Commission has issued Tariff Orders dated June 18, 2015 as per the provisions under Electricity Act, 2003 and UPERC Distribution Tariff Regulations, 2006. However, in the Suo-MottoCorrigendum / Clarification Order dated August 13, 2015, which is now a part of the Tariff Orders for FY 2015-16, in addition to rectifying some inadvertent omission / typographical errors, the Commission has completely changed Point No. 1 related to the Para No.6 of General Provision of Rate Schedule, which is not in the nature of error or omission.

The Petitioner has also submitted that the Commission in exercise of powers conferred under Clause (zd), (ze) and (zf) of Section 181 (2) read with Sections 61 and 62 of the Electricity Act, 2003 (36 of 2003) issued the U.P. Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2006. Clause 2.4 of the Regulation specifies that no Tariff or part of any Tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge.

The Petitioner further submitted that the Commission has modified the Para No. 6 of General Provision of the Rate Schedule, which has significant revenue implication on Licensees and may accordingly require re-determination of tariff altogether for FY2015-16. Such amendment of Tariffs cannot be retreated as error or omission in Tariff Orders for FY2015-16 dated June 18, 2015 as stipulated in the Suo-Motto Corrigendum / Clarification Order. It is in the nature of amendment of Tariff, which is not permitted as per present UPERC Distribution Tariff Regulations, 2006.

The Petitioner has submitted that the issue of capturing the demand of consumers having load below 10 kW was discussed at large with the billing agency, as well as with the field officers and with the existing system and infrastructure it may not be practically possible to record the demand of all such consumers which constitutes the major chunk, in fool proof manner in one go. In light of above, it has requested to restore the previous provision.

Commission’s Analysis:

The Commission has modified the required portion of the existing Tariff Order for FY 2015-16, keeping in view the larger public interest and the need to encourage the use of TVM/TOD/Demand recording meters by the consumers for better grid stability.

Accordingly, the Commission has issued the Clarification / Corrigendum No. 1 to its Tariff Orders for FY 2015-16 on August 13, 2015. In doing so, the Commission has not changed the
tariff for any consumer category. As for the Point No. 1 in this Order, the Commission has only clarified the alternative available to the consumer in case the Licensee fails to note the actual maximum load / demand reading or in case of spot-billing. This clarification has been given in order to remove any ambiguity in the implementation of the Rate Schedule approved by the Commission. It is therefore not correct to say that the tariff has been revised. So far as the issue of major impact on the revenue of the licensee is concerned, any increase or decrease in revenue due to over utilization or under utilization of the contracted load is purely based on estimates. It would be presumptive to conclude that there would definitely be a loss in the revenue. If however, it does lead to some loss in the revenue, inspite of a handsome tariff hike in this year’s Tariff Orders, the same can be taken care of at the time of truing up through the mechanism of regulatory surcharge.

By issuing the Clarification / Corrigendum No. 1, the Commission has neither altered tariff (either fixed / demand charges or energy charges) for any category of consumer nor has it introduced any new category or slab in the existing tariff schedule. Hence, the contentions raised by the Licensee are devoid of any merit and are liable to be rejected.

In the Tariff Orders dated June 18, 2015 for FY 2015-16, the Commission had considered the Licensee’s proposal for billing fixed charge on the basis of contracted load in kW and energy charge on kWh basis for load below 10kW, as reproduced below:

“GENERAL PROVISIONS:
...
6. BILLABLE LOAD / DEMAND:
For the purpose of billing below 10 kW load, the fixed charge will be computed on the basis of contracted load in kW and energy charge will be calculated on kWh basis.

For all consumers with contracted load of 10 KW / 13.4 BHP and above having TVM / TOD / Demand recording meters installed, the billable load / demand during a month shall be the actual maximum load / demand as recorded by the meter (can be in parts of kW or kVA) or 75% of the contracted load / demand (kW or kVA), whichever is higher.”

The Commission in its Clarification / Corrigendum No. 1 Order dated August 13, 2015, to Tariff Orders for FY 2015-16 dated June 18, 2015 modified it as follows:

“GENERAL PROVISIONS:
...
6. BILLABLE LOAD / DEMAND:
For all consumers having TVM / TOD / Demand recording meters installed, the billable load / demand during a month shall be the actual maximum load / demand as recorded by the meter (can be in parts of kW or kVA) or 75% of the contracted load / demand (kW or kVA), whichever is higher.”
Further in case the licensee has failed to note the actual maximum load / demand reading or in case of spot-billing, then the consumer may approach the licensee with a photo of the actual maximum load / demand reading displayed on his meter of the previous month. The licensee shall accept the same for the purpose of computation of billable demand, however if the licensee wishes to, it can get the same verified within 10 days.”

It can be seen from the above that in the modified provision, the capping for consumers below 10 kW has been removed. The modified provision is same as the provision of the Tariff Orders for FY 2014-15 except introduction of a provision for the consumer to approach the licensee with a photo of the actual maximum load / demand reading displayed on his meter of the previous month in case of failure of the Licensee to note the actual maximum load / demand reading or in case of spot-billing. The relevant extract from the Tariff Orders for FY 2014-15 is reproduced as below:

"6. BILLABLE LOAD / DEMAND:
For all consumers having TVM / TOD / Demand recording meters installed, the billable load / demand during a month shall be the actual maximum load / demand as recorded by the meter (can be in parts of kW or kVA) or 75% of the contracted load / demand (kW or kVA), whichever is higher.

......"

As there is no change in the basic provision related to billable load/demand in the Corrigendum / Clarification No. 1 Order dated August 13, 2015 to Tariff Orders for FY 2015-16 issued by the Commission on August 13, 2015 as compared to the Tariff Orders for FY 2014-15, the question of lack of existing system and infrastructure does not arise as the same provision was there in the Tariff Orders for FY 2014-15 also. The Commission in its Corrigendum / Clarification No. 1 Order dated August 13, 2015 has only added the provision enabling the consumer to approach the Licensee with a photo of the actual maximum load / demand reading displayed on his meter of the previous month in case of failure of the Licensee to note the actual maximum load / demand reading or in case of spot-billing.

The Petition is disposed of.

(I. B. Pandey)  (Desh Deepak Verma)
Member              Chairman

Place: Lucknow
Date: October 20, 2015