

**BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION**

Petition No. 384/2006

In the matter of

**Approval of One Time Settlement Scheme for Rural Domestic (LMV-1)
and Private Tube Well (LMV-5) Consumers**

And

In the Matter of

**Madhayanchal Vidyut Vitran Nigam Limited
Poorvanchal Vidyut Vitran Nigam Limited
Paschimanchal Vidyut Vitran Nigam Limited
Dakshinanchal Vidyut Vitran Nigam Limited
Kanpur Electricity Supply Company Limited**

ORDER

Chairman UPPCL has filed a petition before the Commission for approval of One Time Settlement Scheme on 28th August, 2006 in the capacity of Chairman of five distribution companies viz MVVNL, PuVVNL, PaVVNL, DVVNL and KESCO. The petition has been filed in accordance with the declaration of Hon'ble Chief Minister to wave off complete surcharge on outstanding electricity dues of rural domestic consumers (LMV-1) and private tube well consumers (LMV-5) keeping in view the situation of drought as well as in the interest of Power Corporation, if these consumers deposit the amount of original bill in one go during the prescribed period. The scheme has following salient features:

1. It proposes 100% surcharge waiver for all LMV-5 and rural LMV-1 consumers on their bills as on 31st August, 2006. In case surcharge is not identifiable, it may be taken as 35% of the total bill.
2. The proposed scheme shall consider arrears as on 31st August 2006.
3. The registration amount (Rs. 1000/-) will be adjusted in the modified bill. If the modified bill of a registered consumer, under the scheme, is less than the registration amount then the excess amount will be adjusted in his future bills.
4. The proposed scheme shall remain in force from 1.9.2006 till 31.12.2006. The last date of registration under the scheme is also 31.12.2006. In case, the consumer does not make payment by 31.12.2006, the enrollment shall be deemed cancelled and registration amount forfeited. No further consideration shall be made on such cancelled enrolments. In case the consumer does not turn up after enrolment by due date, no consideration shall be made thereafter.
5. The consumers, against whom notice under section 3 and 5 have been issued, shall also be considered under this scheme.
6. The scheme will also cover the cases of permanent disconnections.
7. No application shall be refused registration unless specific reasons are assigned.

8. After 31.12.2006, all registered cases shall be deemed to have been disposed off and recovery, if any, might be initiated as per provisions of the Law in form of electricity disconnection and recovery of arrears through land revenue against all consumers having outstanding electricity dues.
9. Matters sub-judice in courts may also be enrolled provided consumer submits an affidavit to the effect of withdrawing his case from the Court if his dispute is resolved within the scheme.
10. The bills of the registered consumers under the scheme will be processed on "First Come First Served" basis.

Before approving this proposal of the licensee in view of the drought situation affecting the paying capacity of the farmers to clear arrears, it would be prudent to refer the earlier "One Time Settlement Scheme", as approved by this Commission vide its order dated 24th February, 2006 on the petition of Chairman UPPCL dated 21st February, 2006, which was applicable till 31.3.2006 and which provided a waiver of surcharge to the extent of 50% on all LMV-5 and rural LMV-1 consumers on their bills as on 31.3.2005. Further, the order of the Commission also accorded its approval to point 6 of scheme dated 21st February, 2006, which provided that after 31st March, 2006, legal proceedings will be initiated, against all consumers of aforesaid category having outstanding electricity dues, in form of electricity disconnections or recovery of arrears through land revenue. After referring the relevant provisions of the earlier scheme, a scrutiny of the current One Time Settlement petition dated 28th August, 2006 reveals that the present scheme seems to be loaded in favour of compulsive defaulters and it does not distinguish between those who abide the law and those who take the law for ride. In such a situation, if we accept this scheme as it is then a rural domestic consumer or Private Tube Well consumer who got himself enrolled in the previous scheme thereby getting a benefit of 50% surcharge waiver will be discriminated adversely against a consumer of same category with outstanding of same time period but who skipped the earlier scheme as he will now be availing a benefit of 100% surcharge waiver whereas, legally and ideally he should have been disconnected immediately after the closure of earlier scheme and proceedings of recovery through land revenue should have been initiated against him in pursuance of point 6 of the earlier scheme, as approved by this Commission's order dated 24th February, 2006 .

As it is, introduction of One Time Settlement scheme for surcharge waiver has become a routine phenomenon. In fact its name i.e. One Time Settlement has become a misnomer as it is being requested not only on an annual basis but there have also been repeated requests for its extension as well as the enlargement of its scope thereby adding new categories to the list, which defeats the very purpose of provision of late payment surcharge. For an organization alive to its commercial requirements waiver of late payment surcharge should only be requested as a last resort as it affects the capacity of the licensee to offset the payment liability towards Generating Companies against this head. Even with these considerations in mind, the Commission is according its approval to the 100% surcharge waiver scheme in view of the declaration made by the Hon'ble Chief Minister for farmers and rural domestic consumers in view of drought situations and also a subsidy commitment of the State Government towards the loss of revenue of the licensee on this account. The scheme is being approved with following modification in light of above analysis so that the scheme remains non discriminatory in nature while still extending its benefits to targeted categories in accordance with the intent of the scheme.

- a. 100% surcharge waiver is allowed on outstanding electricity arrears of LMV-5 and rural LMV-1 consumers as on 31/8/2006, if the consumer is ready to pay the original bill in one go.
- b. Within above categories, 50% Surcharge as paid by consumers, while availing the benefit of earlier OTS scheme approved by the Commission's order dated 24th February, 2006, will be adjusted in the future bills of the respective consumers so that the intent of 100% surcharge waiver, as envisaged in the declaration of Hon'ble Chief Minister is achieved and at the same time consumers willing to make timely payments or at least marginal defaulters do not feel discriminated against in view of equity.
- c. Further, since the 100% surcharge waiver as envisaged in the scheme has been requested in accordance with the declaration of the Hon'ble Chief Minister therefore, the licensee would ensure that any shortfall on account of waiver of the surcharge will be compensated by the State Government in

form of subsidy. The scheme already provides that the State Government would compensate the licensee on this account to the tune of Rs. 50 crore however; a detailed calculation of waived surcharges should be furnished before the Commission within one month of the closure of the present scheme i.e. by 1st January, 2007 to convince the Commission about the actual quantum of subsidy.

- d. Since the scheme does not provide any treatment regarding deposition of 10% recovery charges in cases of consumers against whom notices have been issued under section 3 or section 5 therefore, licensees are being directed that they may seek a financial commitment to this effect also from the State Government.

While allowing this scheme, as revenue shortfall on account of surcharge waiver is being compensated by the State Government and also in view of the licensee's averment that it is likely to get a revenue of Rs. 150 crore through the proposed One Time Settlement Scheme, the Commission feels that frequent introduction of surcharge waiver scheme gives a wrong message as it encourages the defaulters while discriminating against the honest paying consumers. Further, this is a glaring example of, commercial passiveness of the licensee that a situation is created wherein huge outstanding are allowed to be accumulated without resorting to measures like permanent disconnection and issuing recovery certificate under section 5 and then a request is made for waving the surcharge.

Therefore, the proposed scheme is being allowed for LMV-5 and rural LMV-1 consumers with modifications, which are being reproduced at the cost of repetition - .

- i. 100% surcharge waiver is allowed on outstanding electricity arrears of LMV-5 and rural LMV-1 consumers as on 31/8/2006, if the consumer is ready to pay the original bill in one go.
- ii. Within above categories, 50% Surcharge as paid by consumers, while availing the benefit of earlier OTS scheme approved by the Commission's order dated 24th February, 2006, will be adjusted in the future bills of the respective

- consumers so that the intent of 100% surcharge waiver, as envisaged in the declaration of Hon'ble Chief Minister is achieved and at the same time consumers willing to make timely payments or at least marginal defaulters do not feel discriminated against in view of equity.
- iii. Further, since the 100% surcharge waiver as envisaged in the scheme has been requested in accordance with the declaration of the Hon'ble Chief Minister therefore, the licensee would ensure that any shortfall on account of waiver of the surcharge will be compensated by the State Government in form of subsidy. The scheme already provides that the State Government would compensate the licensee on this account to the tune of Rs. 50 crore however; a detailed calculation of waived surcharges should be furnished before the Commission within one month of the closure of the present scheme i.e. by 1st January, 2007 to convince the Commission about the actual quantum of subsidy.
- iv. Since the scheme does not provide any treatment regarding deposition of 10% recovery charges in cases of consumers against whom notices have been issued under section 3 or section 5 therefore, licensees are being directed that they may seek a financial commitment to this effect also from the State Government.

(R. D. Gupta)
Member

(P. N. Pathak)
Member

(Vijoy Kumar)
Chairman

Dated : 29th August, 2006
Place : Lucknow