

## **Press Release**

### **In the matter of subsidized tariffs to power loom consumers**

1. The State Government issued an order to the Managing Director, UP Power Corporation Limited on 14<sup>th</sup> June, 2006 directing the Corporation to supply electricity to power loom consumers in the state on concessional flat rate based on reed space, number of looms, number of additional machines and rural – urban classification. The above order indicated bi annual meter reading and provision related to free of cost meter without specifying anything about advance commitment of subsidy.
2. The Commission took suo-motto cognizance of the above order and through its order dated 3<sup>rd</sup> July, 2006 highlighted the legal deficiencies of the order and also the manner in which it was issued. The Commission pointed out that under the provisions of Electricity Act, 2003, any policy directive should be issued to the State Commission and not to the licensees. In its order the Commission emphasized on the overriding effect of section 65 over section 108 of Electricity Act, 2003 apart from observing that fixation of specific rate does not fall within the policy domain and it is an exclusive jurisdiction of the Commission.
3. The order of the Commission was in line with the judgments of Hon'ble Supreme Court dealing the issue of policy direction in the matter of M/s Real Food Products Limited and Others etc. Vs. A. P. State Electricity Board & Others Dated 1st March, 1995 and Chittoorzilla Vyavashyadarula Sangham Vs. A.P. State electricity Board & others Dated 3rd November, 2000
4. Subsequent to the issuance of Commission's order dated 3<sup>rd</sup> July 2006, the Chairman, UPPCL submitted a petition on affidavit dated 10<sup>th</sup> July 2006. State Government issued a policy direction U/s 108 vide letter dated 7<sup>th</sup> July, 2006. The affidavit clearly laid down that the billing of the power loom consumers will be done strictly in accordance with the applicable tariff rates whereas only the payment shall be collected as per Government Order. The affidavit also stated that Government is shortly releasing advance subsidy on account of the difference between tariff rate and payment schedule, which will be adjusted on six monthly basis. The advance subsidy committed in the policy direction issued by the Government is to the tune of Rs. 30 crore.
5. From the above affidavit and policy directive of the State Government, all the four essential legal requirements as raised in the Commissions order dated 3<sup>rd</sup> July, 2006 i.e.
  - a) no alteration with the rate design of the Commission
  - b) billing to be strictly according to the rate schedule
  - c) compliance of advance subsidy provision

d) a directive to the Commission under section 108 in the matter

were complied and things fell in a proper legal framework.

6. However, there were number of operational issues, which were not adequately addressed in the Government order and therefore, the Commission addressed them in its order.

### **Salient Points of the Commission's Order dated 11<sup>th</sup> July 2006**

- The Commission directed that the meter reading of these consumers would be done on monthly basis in accordance with the tariff schedule. Technically also most of the meter installed at these premises might not be having any memory storage of more than 45 days therefore, if the reading is done on six monthly basis, actual demand on monthly basis may not be captured to generate a bill according with tariff order.
- Billing to be done in accordance with tariff schedule on monthly basis and payments to be collected as per Government order, balance will be shown in the monthly bill as subsidy payable by the Government.
- The licensees are directed to submit details regarding total subsidy requirements for the year based on the three months billing data of power loom consumers in the current financial year i.e. for the months of April, May and June 2006 for which billing must have been done in accordance with the prevalent rate schedule within one month of the issuance of this order to justify the figure of Rs. 30 Crore as advance subsidy.
- Advance subsidy shall be collected from the Government in two half yearly installments.
- On the basis of monthly meter reading and billing, the exact requirement of subsidy will be worked out on six monthly basis. Any shortfall and surplus shall be adjusted accordingly.
- The existing rebate of Rs. 5000/- to power loom consumers in their last two months bills of the financial year to be discontinued as a totally new scheme of flat subsidized payment has been introduced by the Government for which it has made subsidy provision.
- The Government order had provided a security deposit of Rs. 200/HP for new connections. The Commissions has not agreed to it and has directed the licensees to charge security deposit in accordance with the provisions of Supply Code thereby

calculating the security deposit on the basis of payment to be made by power loom consumers in two months.

- The Government order stated that power loom consumers will not bear the expense of meter in case of new connection, which is inconsistent with first proviso of section 55(1) of Electricity Act, 2003. The Commission has asked the State Government to earmark capital subsidy for providing free of cost meter to these consumers.
- The Government order has not provided any treatment for violation of contracted demand, which happens to be a deemed aggregated demand in this case, therefore, it is not clear who will pay for the violation as Government order says that consumers will not pay on the basis of meter reading.. Therefore, the licensees have been directed to seek clarification from the State Government regarding penalty for excess demand in case a power loom consumer exceeds his deemed contracted demand and submit the same before the Commission within 15 days of the issuance of this order.
- The Government order also does not provide any treatment to the minimum consumption charges. In this context, the Commission has directed that In case the bill of the power loom consumer is prepared on the basis of minimum charges, as per tariff order, and the flat payment of consumer falls below it then the balance amount would be paid by the State Government as subsidy.
- Adjustment of the bills of April & May 2006 in the future bills have been allowed.

The Commission's order dated 3<sup>rd</sup> July, 2006 stands superceded in view of this order.