

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
Tel. No. 022-22163964/65/69 Fax 022-22163976

Email: mercindia@mercindia.org.in

Website: www.mercindia.org.in

Case No. 10 of 2009

In the matter of
MSETCL's Petition for extension of existing Tariff with effect from April 1, 2009,
up to issuance of new Tariff Order for FY 2009-10.

Shri V.P. Raja, Chairman
Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

ORDER

Dated: May 15, 2009

M/s Maharashtra State Electricity Transmission Co. Ltd. (MSETCL) submitted a Petition under affidavit before the Commission on April 24, 2009 seeking directives of the Commission to enable MSETCL to recover its required revenue as per the existing Tariff Order dated May 31, 2008 in Case No. 70 of 2007 with effect from April 1, 2009, till the new Tariff Order for FY 2009-10 is issued.

2. MSETCL has prayed as under:

1. *“Under the above conditions and till pendency of issuance of tariff order of MSETCL for FY 2009-10, MSETCL prays to the Commission to pass a suitable order to enable MSETCL to recover its required revenue with effect from 1st April 2009.”*

3. In accordance with Regulation No.17 of the Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2005, the Commission has initiated the Annual Performance Review (APR) process for FY 2008-09 under MYT framework, truing up for FY 2007-08 and determination of ARR for FY 2009-10.

4. MSETCL has submitted its Petition dated November 27, 2008 seeking approval of Annual Performance Review for FY 2008-09 and Annual Revenue Requirement (ARR) Petition for FY 2009-10. Further, the Commission held the Technical Validation Session (TVS) on January 15, 2009 in the office of the Commission, and the revised Petition was submitted on



February 20, 2009. The Public Hearing was held in the matter on March 23, 2009 and consequently, the Tariff Order for FY 2009-10 will be passed shortly.

5. MSETCL submitted that the Commission's Tariff Order in the matter of Intra State Transmission System (InSTS) in Case No. 104 of 2007 was in force till March 31, 2009. Further MSETCL in its APR Petition submitted that according to the principle of pooled tariff mechanism issued by the Commission, the transmission tariff for the State of Maharashtra would be determined Suo-Motu by the Commission after considering the APR Petition of all the transmission licensees in the State of Maharashtra.

6. The Commission, vide its Notice dated May 6, 2009 scheduled a hearing in the matter on May 12, 2009, and directed MSETCL to serve a copy of its Petition along with its accompaniments to the four Consumer Representatives authorised on a standing basis under Section 94(3) of the Electricity Act, 2003 to represent the interest of consumers in the proceedings before the Commission.

7. At the hearing held in the matter on May 12, 2009, Shri. P.G.Khandalkar, Director (Finance), appeared on behalf of MSETCL. Shri. Khandalkar reiterated the prayers before the Commission and requested the Commission to Order accordingly.

8. Having heard the Parties, the Commission is of the view as under:

9. The Commission is of the view that the MSETCL is authorised to charge only that tariff which is determined and approved by the Commission in accordance with the provisions under Part VII (Tariff) of the Electricity Act, 2003 ("EA 2003"). In the event the tariffs that are in force till March 31, 2009 are not extended till the revised tariffs are determined for FY 2009-10 under the APR framework, MSETCL will be forced to be liable to penal consequences under different provisions of the EA 2003 in case the tariffs as existing as on 31.3.09 are charged beyond 31.3.09 without being extended through an Order of this Commission. Moreover, it cannot be the case that after a certain date, there will be no tariff applicable, leading to a situation of free or no transmission of power.

10. Therefore, till such time the revised tariff is determined for FY 2009-10, the applicability of the existing Tariff is required to be extended. Once the revenue requirement is determined for FY 2009-10, appropriate adjustments would be made as per the revised tariff rates applicable from the date of the Tariff Order. The Commission is of the view that sufficient reasons exist for granting permission to the MSETCL to bill the Distribution Licensees as per the existing Tariff Order as aforesaid, and accordingly **the Commission extends the applicability of the aforesaid Tariff Order for MSETCL in Case No. 70 of 2007 dated May 31, 2008, with effect from April 1, 2009, till the revised tariff is determined for FY 2009-10 under the APR framework and Order issued thereunder. As the applicability of the Tariff Orders for RInfra-T and TPC-T have been extended, with effect from April 1, 2009 through the Combined Order in Case Nos. 152, 153 and 154 of 2008 dated April 15, 2009, the**



Commission by this Order also extends applicability of Commission's Tariff Order in the matter of determination of Transmission Tariff for Intra-State Transmission System in Case No. 104 of 2007, with effect from April 1, 2009, till the new Tariff Order of Intra State Transmission System (InSTS) is issued. Under-recovery or over-recovery, vis-à-vis the approved revenue requirement for FY 2009-10, if any, or financial implications and adjustments, caused solely on account of the continuance of the existing tariff for the period till the revised tariff is determined for the period under FY 2009-10 under the APR framework shall be trued up in the next APR. This will be line with the Judgment dated September 19, 2007 of the Hon'ble Appellate Tribunal for Electricity in Appeal No. 70 of 2007 wherein it inter alia held as under:

"7.Therefore the cost of supply has to be met out of revenue earned by sale of electricity. In case the MYT tariff comes into effect a month later than the day on which it was expected, the required annual revenue minus the revenue realized in that month will have to be recovered in the remaining months of that period. In such a situation, the increased cost of the new period will have to be distributed over the remaining period of the MYT. The other way of fixing the tariff, in case of a delay, would be to distribute the ARR over the entire tariff period so that some amount of revenue for the delayed period remains under-recovered. Here again the under-recovered amount has to be recovered in order to maintain the viability of the licensee....."

While submitting the data for truing up, MSETCL should submit revenue data separately for the period from April 1, 2009 till tariff is determined for the balance period for FY 2009-10.

Ordered accordingly.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(V. P. Raja)
Chairman



(P.B. Patil)
Secretary, MERC

