

## Press Note

(Order dated 22.08.2012 in Case No. 151 of 2011)

The Maharashtra Electricity Regulatory Commission (MERC) issued the interim Order dated October 15, 2009 in Case No. 50 of 2009 under Section 94(2) of the Electricity Act, 2003, through a consensual process of discussion thereby evolving a mechanism for facilitating changeover by the consumer from one Distribution Licensee to another Distribution Licensee to effect supply to changeover consumers using the distribution network of the existing Distribution Licensee with the long-term objective of introducing competition, thereby supplying cheaper electricity to consumers situated in the Licence area common to both TPC-D and RInfra-D.

RInfra-D filed a Petition before the Commission, alleging that TPC-D is indulging in cherry picking while permitting changeover of consumers from RInfra-D to TPC-D, and by laying its network in a selective manner, thereby not complying with its Universal Supply Obligation (USO). The Commission directed RInfra-D and TPC-D to submit the relevant information during the proceedings held in the presence of authorised Consumer Representatives.

The Commission has used the terms, "Changeover Consumer" and "Switchover Consumer", as defined below:

*Changeover consumer: The Consumers who were taking supply from one Distribution Licensee through its distribution network, changing over to another Distribution Licensee for supply of electricity, while, however, continuing to be connected to the distribution network of the first licensee.*

*Switchover consumer: Consumers who were taking supply from one Distribution Licensee through its distribution network, changing over to another Distribution Licensee for supply of electricity on the network of the second Distribution Licensee*

The Commission framed several critical issues and has given its analysis and ruling on each issue in the Order. The Commission concluded that:

- TPC-D has been attempting to filter the consumers who are changing over from RInfra-D to TPC-D, rather than accepting all complete Applications from all eligible consumers, in accordance with its mandate as a Distribution Licensee under the law. This points to cherry-picking being done by TPC-D in the changeover process, since the addition of only high-end subsidizing consumers (with high energy consumption) to TPC-D's consumer base is being allowed.

- TPC-D has been setting up network in selected Wards for consumers other than residential category, i.e., though, there are changeover consumers in the surrounding area, TPC-D has laid its network only for the single consumers without laying the network for remaining changeover consumers in the surrounding area.
- The Commission is of the view that whether this is because of any intentional action or omission of TPC-D behind the trend of migration of consumers is not as much important as the trend itself, because the trend is upsetting the level playing field and hence, is not conducive to a competitive environment in electricity distribution by two Distribution Licensees having a common area of supply.
- TPC-D has not met such Universal Service Obligation (USO) in its Licence area even in the 12 Clusters identified by TPC-D, as it has not rolled out its distribution network even after the elapse of more than 4 years since the Judgment of the Hon'ble Supreme Court upholding the Distribution Licence of TPC-D.

**The Commission concluded that there is a need to intervene in the manner of changeover and switchover of consumers, and there is a need to calibrate the migration of consumers from one Distribution Licensee to another, in order to ensure the level playing field and also to protect the interests of low-end consumers being supplied electricity in the Common Area of Supply between RInfra-D and TPC-D.**

It also needs to be appreciated that this is the first time that such a scheme of changeover of consumers from one Distribution Licensee to another Distribution Licensee using the existing distribution network, has been attempted anywhere in the country. Accordingly, to ensure that the objective of enabling consumer choice is achieved, the Commission modified the interim Order in Case No. 50 of 2009, **for the next one year from the date of this Order**, as under:

- (a) From the date of this Order, consumer changeover and consumer switchover will be allowed from RInfra-D to TPC-D only for the residential category of consumers and that too only for the consumers who consume electricity upto and including 300 units per month (average monthly consumption over the previous 12 months as on the date of submitting application and as captured in the last paid monthly bill of RInfra-D)
- (b) The above restriction shall not apply to pending applications for changeover (as on date of this Order), irrespective of consumer category and consumption slab, which will be processed as per the earlier protocol approved in the interim Order dated October 15, 2009, and changeover for eligible consumers shall be done in a smooth manner.
- (c) For all changeover consumers who have changed over before the date of this Order or who have already applied before the date of this Order and are eligible for

changeover, the supply will be given by TPC-D using the network of RInfra-D, till such time as TPC-D develops its own distribution network in the area.

- (d) Apart from the above modifications, all other aspects of the Protocol will remain the same as approved by the Commission in the interim Order dated October 15, 2009 in Case No. 50 of 2009.
- (e) TPC-D should immediately amend its Power Supply Application Form in the manner directed in the Order.
- (f) Switchover of consumers from RInfra-D to TPC-D network is allowed for existing changeover consumers and all consumers who have already applied and are eligible for changeover, for all consumer categories, from the date of laying distribution network in the Common Licence Area.
- (g) All existing and future changeover consumers, who have changed over from RInfra-D to TPC-D and all existing direct consumers of TPC-D, can changeover from TPC-D to RInfra-D, in accordance with the protocol approved by the Commission in the interim Order dated October 15, 2009 in Case No. 50 of 2009.
- (h) The Commission will also monitor the progress of consumer addition by TPC-D (changeover, switchover, new connections and reverse migration, if any) on a quarterly basis, and both RInfra-D and TPC-D will be required to submit the desired information (in the formats provided in the Order) for every quarter, by the end of the first month after the end of the respective quarter.
- (i) The Commission will review the status of changeover and switchover and new connections added in the identified areas during the period of one year, before deciding on the forward path for the period beyond one year.

The Commission clarified that TPC-D has to set up its own distribution network in the Common Area of Supply in the medium-term, and usage of the existing distribution network of RInfra-D (for supplying to changeover consumers) is only an interim solution to be adopted in the interregnum till such time as TPC-D sets up its own distribution network. Further, under no circumstances can the network creation be allowed on a selective basis. Accordingly, the Commission issued the following directions to TPC-D regarding the capital expenditure to be undertaken over the next one year, in order to ensure that TPC-D meets its USO.

- (a) TPC-D is directed to re-draw the approved Cluster-wise Network Rollout Plan into a Ward-wise Network Rollout Plan, and submit the same to the Commission for approval, within 2 weeks of the issue of this Order.
- (b) TPC-D will have to focus all its energies and capital expenditure and ensure that by the end of one year from the date of this Order, TPC-D has rolled out its entire distribution network in the 11 Clusters (viz. Mira Road, Dahisar, Kurla LBS, Saki, Mindspace, Trombay, Mankhurd Chembur, Vrindavan, Arogyanidhi, Vasantotsav,

and Malad BMC Lagoon) in such a manner that it is in a position to provide supply through its own distribution network to existing and prospective consumers located anywhere within these Clusters, within the minimum time period of one month specified under the MERC SOP Regulations.

- (c) TPC-D has to ensure that all capital expenditure schemes submitted to the Commission for approval are part of the overall Network Rollout Plan prepared in such a manner that the above objective is achieved.
- (d) TPC-D should ensure that wide publicity is given to reach the consumers in these identified 11 Clusters.

The Commission directed both the Parties to resolve the operational issues through mutual discussions in a constructive manner in the larger consumer interest, and ensure the success of the parallel Licensee model prevailing in the city of Mumbai.

The Commission has not ruled on certain issues such as applicability of Cross-Subsidy Surcharge and Regulatory Asset Surcharge in this Order as the same are presently sub-judice before the Hon'ble Appellate Tribunal for Electricity.

Further, in order to speed-up the changeover process and for better understanding of the residential consumers, the office of the Commission has tabulated the savings in Rs. per month as well as in percentage terms, when residential consumers with different consumption levels shift from RInfra-D to TPC-D, as under:

Summary: Savings in Monthly bills for different consumption levels							
LT I Residential (Single Phase)	Total Monthly Bill (Rs.)			Savings w.r.t RInfra-D Bill (Rs)		Savings w.r.t RInfra-D Bill (%)	
Average monthly consumption (Units)	Continue With RInfra-D	Changeover Consumer (Shift to TPC-D on RInfra-D's Wires)	Switchover Consumer (Shift to TPC-D on TPC-D Wires)	Changeover Consumer (Shift to TPC-D on RInfra-D's Wires)	Switchover Consumer (Shift to TPC-D on TPC-D Wires)	Changeover Consumer (Shift to TPC-D on RInfra-D's Wires)	Switchover Consumer (Shift to TPC-D on TPC-D Wires)
50 units	212	155	115	57	97	27%	46%
75 units	301	215	156	86	145	29%	48%
100 units	390	318	196	71	194	18%	50%
150 units	740	550	401	190	339	26%	46%
200 units	1067	782	584	285	484	27%	45%
250 units	1395	1014	766	381	629	27%	45%
300 units	1722	1325	948	397	774	23%	45%

As can be seen from the above Table, significant savings can be achieved by the residential consumers consuming below 300 units per month by shifting from RInfra-D to TPC-D, with the benefit ranging from 18% to 29% in case of changeover consumers, and the savings increasing even further in case of switchover consumers, ranging from 45% to 50%, depending on the consumption level. The Commission is keen that residential consumers avail this opportunity and benefit from the reduction in their monthly electricity bills.