

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub :** In the matter of Amendment in the Tariff principles laid down in the Madhya Pradesh Electricity Regulatory Commission (Terms and conditions for Determination of tariff for supply and wheeling of Electricity and methods and principles for fixation of charges) Regulations, 2009 (G-35 of 2009) here in after referred as Regulations 2009 and MPERC (Terms and conditions for determination of tariff for distribution and retail supply of electricity and methods & principles for fixation of charges) Regulations, 2006 (RG-27(I) of 2008) (here in after referred as Regulation 2006) consequently review all retail supply tariff order and true up order to be passed on the basis of these regulations.

**ORDER**

**(Date of hearing 10.01.2012)**

**Date of order 25.01.2012**

MP Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore	Petitioner
MP Poorv Kshetra Vidyut Vitaran Co. Ltd. Jabalpur	Petitioner
MP Madhya Kshetra Vidyut Vitaran Co. Ltd. Bhopal	Petitioner

Shri Manoj Jhawar, Director (F&A) and Shri Shalendra Jain, AO (Tariff) appeared on behalf of petitioner MP Paschim Kshetra Vidyut Vitaran Company Ltd., Indore. Shri Shashikant Tiwari, Executive (Finance), MPPKVVCL, Jabalpur appeared on behalf of MP Poorv Kshetra Vidyut Vitaran Co. Ltd. Jabalpur and Shri R.K. Khade, Dy. G.M. appeared on behalf of MP Madhya Kshetra Vidyut Vitaran Co. Ltd. Bhopal.

2. The subject petition has been filed by MP Paschim Kshetra Vidyut Vitaran Company Ltd., Indore for seeking the revision in the norms in respect of O&M expenses, interest and finance charges working capital, other income etc., as specified by the Commission in the MPERC (Terms and conditions for Determination of tariff for supply and wheeling of Electricity and methods and principles for fixation of charges) Regulations, 2009 (G-35 of 2009) Regulations 2009 and MPERC (Terms and conditions for determination of tariff for distribution and retail supply of electricity and methods & principles for fixation of charges) Regulations, 2006 (RG-27(I) of 2008).

3. The Commission held motion hearing on 19.12.2011 wherein the petitioner West Discom made its submission in support of their request for revision of the norms as specified by the Commission in the aforementioned Regulations for the purpose of determination of tariff. During the course of the hearing, the Central Discom submitted its request to become the co-petitioner in the subject petition. The Commission accepted the request and directed vide order dated 23.12.2011 to issue the notices to Central Discom as well as to the East Discom for filing appropriate petitions as per the regulations of the Commissions within a month from the date of the Order.

**Petition No.65 /2011(West Discom)**  
**Petition No.71/2011 (East Discom)**  
**Petition No.5/2012 (Central Discom)**

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4. In accordance with the directions given in the matter on 19.12.2011, the East Discom and the Central Discom filed their petitions in the instant matter. These Discoms have also supported the contention of the West Discom on the issues raised regarding review of norms. All the three petitions were clubbed together for further deliberations.

5. During the course of hearing held on 10.01.2012, the representatives on behalf of the Distribution Companies raised the issues regarding revision of norms for the determination of Tariff for FY 2012-13 as well as to allow the review of norms while finalizing true-ups of the ARR of previous years. The petitioners stated that the full impact of the pay revision as per the Sixth Pay Commission has not been taken into account while finalizing the norms in the Regulations. The issues with regard to allowing common expenditure on account of the services provided by MPSEB, revision of norms for R&M, A&G, terminal benefits, interest and finance charges etc. as detailed in their petitions were raised. The Commission enquired from the representative of the West Discom as to whether the judgment of Hon'ble Appellate Tribunal for Electricity (APTEL) in the matter of Appeal No.145/2009 has allowed the common expenses of MPSEB to be passed on to the Distribution Companies. The representative of the West Discom requested to allow sometime for further submissions after study of the said judgment.

6. The West Discom has made another submission vide their letter of 16.01.2012 stating that as per judgment of the Hon'ble APTEL under Appeal No.145/2009, the O&M expenditure has been permitted on actual basis. It has been further stated that the Hon'ble APTEL has not given any separate direction on issue of common expenses of MPSEB. Therefore, in the instant petition, it has been requested to allow these expenses on actual basis. With regard to the issue of treatment of Consumer's Security Deposit, the petitioner West Discom has submitted that this issue is not being pressed upon and no further submission is being made.

7. It is observed that the judgment of APTEL in Appeal No.145/2009 has been misconstrued. The Hon'ble Tribunal in this judgment has merely upheld the order of the Commission to allow actual O&M expenses and that this judgment pertained to tariff regulations which lapsed in March, 2009. It can not be read in this decision that O&M expenses are to be allowed at actuals in subsequent tariff regulations. So far as common expenses of MPSEB are

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concerned, disallowance thereof was not challenged in the aforesaid appeal and hence judgment thereof carries no directions on this. Disallowance of common expenses of MPSEB was challenged in appeal No.24 of 2010 prepared by MP Genco and Hon'ble Tribunal has upheld the disallowance. It is held by the tribunal – “Admittedly the appellant has neither filed review petition before the State Commission nor preferred any appeal before this tribunal as against the disallowance of said common expenses as such it has attained finality”.

8. The Commission observed that in so far as MPERC (Terms and conditions for Determination of tariff for supply and wheeling of Electricity and methods and principles for fixation of charges) Regulations, 2009 are concerned, the provisions with regard to norms are amply clear. The Commission further observed that these MYT Regulations are applicable for a control period of 3 years, of which the Retail Supply Tariff for the first two years has already been determined. The petitions for review of the norms have been filed at the fag end of the control period, when the petitions for determination of Retail Supply Tariff for the last year of the control period are already under process. Any review at this juncture, is not maintainable as the regulations and tariff orders issued these against have attained finality. The Commission, however, is of the view that the petitioners may take up the issues raised in the instant petitions at the time of true-up of ARR of respective years and also as and when this Commission frames tariff regulations for next control period.

Ordered accordingly.

sd/-  
(C.S. Sharma)  
Member

sd/-  
(Rakesh Sahni)  
Chairman