Date of hearing: 15.11.2006

Sub: In the matter of review of tariff order dated 31.3.06--case of M/s HEG Ltd., Mandideep

Petition No. 70/06

Shri K.N.Mathur, Technical Advisor, M/s HEG Ltd., Mandideep appears on behalf of Petitioner.

Shri R.C.Yadav,SE appears on behalf of M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal. Shri D.K.Ojha, ASE appears on behalf of M.P. Pashchim Kshetra Vidyut Vitaran Co. Ltd., Indore. Shri O.S.Parihar, SE appears on behalf of M.P. Poorva Kshetra Vidyut Vitaran Co. Ltd., Jabalpur. All the Discoms have submitted written submission.

2. **ORDER**

(a) The representative of the petitioner could not submit any ground to establish an error in the tariff order. Though in the past, the Commission had been following a billing demand for calculating the fixed charges, in this order it has decided for recovering fixed charges on contract demand and it was not an error apparent.

(b) Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000 authorizes the Commission to include in the tariffs of the licensee, an amount to be appropriated to special funds which the Commission, in its opinion, consider necessary to meet the expenses required for implementing projects to enable supply of electricity to consumers in different places in the area of supply of the licensee. The licensees were not in a position to raise resources from the market for implementation of augmentation projects for capacity increase and the Commission felt the need for providing the seed money to the licensees to leverage the same for raising loans from the market so that consumers, in the long run, would definitely be benefited with better voltage, assured supply etc. Taking into consideration, the financial condition of the licensees and the long-term benefits accruing to the consumers, the Commission had decided to create a fund through tariff as authorized by the Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000.

Hence, the Commission is not inclined to review its tariff order on these issues.

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(R. Natarajan) **Member (Econ.)**	**(P.K. Mehrotra)** **Chairman**

3. In the instant petition, the following two issues needs due consideration on account of apparent error as pointed out by them:--

I. Fixed cost shall not be linked to full contract demand.

II. Provision of principal amount of special fund (Rs.40.00 crores) through the tariff is not correct and only the interest on principal amount can be considered as pass through the tariff.

On the above two issues my reservations are as follows:

(i) In the Tariff Order dated 31.3.2006 the fixed cost has been indicated 100% of Contract Demand. The HT consumers have appealed and requested for review on various technical and commercial grounds. It is mentioned in the Regulations and Tariff Order dated 31.3.2006 that fixed cost shall be linked to full contract demand (for HT and LT consumers). The plea of the petitioner is that there is a inherent meaning of using the word “linked” i.e. it may be some percentage of full contract demand i.e. (billing demand) or the actual MD reading whichever is more. In the past the minimum billing used to be 75% of contract demand since past more than two decades. In the other states also the billing demands are ranging between 75% to 85%. This is the first time that in the order of MPERC the demand has been directly linked 100% of contract demand which has been protested by the petitioner and other LT and HT two part tariff consumers on the following reasons:

(a) There must be some flexibility for operation of the machines which can never operate at 100% contract demand all the time. Technically, it is a fact whenever the supply voltage is poor the motor draws more current to meet the requirement of output power and due to this there is incremental losses in the cable and motors windings and this causes recording of higher MD.

Therefore there must be flexibility in operation below full contract demand and therefore the plea of the petitioner that instead of billing 100% contract demand it should be linked to certain percentage of demand. In my opinion, Commission should reconsider this issue on valid technical ground and may decide to reduce the billing on full contract demand to say 85% of Contract Demand or Actual Maximum Demand recorded whichever is more.

(b) In most of the States, the Regulatory Commissions are not incorporating billing on full contract demand basis.

(c) Contracted load of EHV lines of the Board for payment of capacity charges is limited to 6130 MW whereas the state grid handles the power to the extent of 9200 MW of connected/contracted load and therefore billing on full contracted load will lead to over recovery.

(d) The petitioner also states that in the regulation there is no mention of fixed charges to be linked to full contract demand in respect of EHT consumers which may be considered as error apparent.

(e) During the hearing it is brought to notice that if billing on 100% contract demand is followed the consumers have the tendency to reduce the contract demand and the net effect is that apparently load factor will increase without any material increase in consumption and in consequence the consumer will be entitled for claiming load factor concession benefit which will cause loss to the licensees. This also appears to be an error apparent if the billing demand is linked to 100% contract demand.

(f) The representative of the Licensees have taken the stand that if billing of full contract demand is altered and is amended to certain percentage of contract demand (i.e. billing demand) they are likely to loss revenue. Incidentally, it may be stated that in the Tariff Order dated 31.3.2006 nowhere it has been shown that the revenue accrual is based on full contract demand.

(g) As stated above linking of fixed cost to full contract demand is error apparent and needs review i.e. to fix the billing demand in a range between 75% to 85% as may be decided.

(h) This issue cannot be decided at a later stage during the examination of next Tariff Order by way of truing up as it would be most impossible task for the Commission to decide the individual cases. Therefore, we may clearly spelt out that there is error apparent on account of this issue in the Tariff Order and the Discom may re-calculate the demand charges on the basis of certain percentage of contract demand as would be decided by the Commission.

(i) As stated above, in my opinion this is the case of error apparent and amendment order can be issued to the extent of 85% of Contract Demand or actual Maximum Demand whichever is higher from the date of the tariff order 31.3.2006. Incidentally similar amendments were already done on number of issues after the detail tariff order was issued.

(j) Further, the licensees in their tariff proposals have asked for fixed charges to be billed at 75 % of contract demand or maximum demand , whichever is more. They have, however, not asked for fixed charges to be billed for full contract demand.

(ii) As regarding the second issue it is to state that Commission has made available amount equal to Rs.40 crores as special fund, which has been considered as pass through the tariff. In the Tariff Order dated 31.3.2006 it has been stated that Commission has been empowered under section 26(7) (b) of Vidyut Sudhar Adhiniyam, 2000 to appropriate special fund for implementation of projects in different places of Discoms.

(iii) The Clause reads as under :

"26(7)(b) The Commission shall be entitled to include in the tariffs of the licensee an amount to be appropriated to Special Funds which the Commission, in its opinion, consider necessary to meet the expenses required for implementing projects to enable supply of Electricity to consumers in different places in the area of supply of the Licensee."

(iv) In this issue my views defer after hearing the explanation given by the petitioner that the principal amount for major and minor capital works can not be passed through tariff whereas only the interest that would accrue can be considered as pass through. It is not out of place to mention that annual business plans are also being submitted by the respective Discoms, which incorporates various major and minor works that are proposed to be undertaken and commissioned by them. If any of the important works are left out by the Discoms the Commission can include a special fund in addition to the fund and work allocation shown by the Discoms in their annual business plan in their tariff proposals and they can be given a priority if any special works are to be undertaken and completed by them for supply of electricity to consumers in different places.

(v) In accounting principles also nowhere the principal amount for major and minor schemes and capital works can be passed through tariff and they are repaid through only depreciation provisions in the tariff and the interest accrue thereon is recovered through tariff.

(vi) In my opinion this is not the intension of the legislators for providing principal amount in tariff which may not be in the interest of the consumers of the State. Therefore I reiterate that to this extent order may be considered as error apparent and Rs. 40.00 crore be adjusted in the ensuring tariff determination process.

(vii) (i) In nutshell we may consider fixed cost of 85% of contract demand or maximum demand whichever is higher from the date of tariff order i.e. 31.3.2006.

(ii) The special fund of Rs.40.00 crores provided in the tariff shall be adjusted in the ensuing tariff determination process and only the interest accrued be considered as pass through.

(D. Roybardhan)
Member (Engg.)

ORDER

In terms of Section 92 (3 &4) of the Electricity Act,2003 (Act 36 of 2003), the majority view of Shri P.K.Mehrotra, Chairman and Shri R.Natarajan, Member (Econ.), will be the order of the Commission.

This order is signed, dated and issued by the Madhya Pradesh Electricity Regulatory Commission on 18th January,2007.

Date: 18.1.2007
Place: Bhopal

(R.Natarajan) **Member (Econ.)**	**(D.Roybardhan)** **Member (Engg.)**	**(P.K.Mehrotra)** **Chairman**