



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION,
LUCKNOW

Petition No.: 1086 / 2016

PRESENT:

1. Hon'ble Sri Desh Deepak Verma, Chairman
2. Hon'ble Sri InduBhushanPandey, Member

IN THE MATTER OF:

ONE TIME SETTLEMENT SCHEME (OTS) OF 100% SURCHARGE WAIVER FOR LMV-1 (RURAL) AND LMV-5 (RURAL) CONSUMERS FOR THE LIMITED PERIOD, W.E.F. THE DATE OF ORDER TO 31.03.2016.

AND

IN THE MATTER OF:

1. MadhyanchalVidyutVitran Nigam Limited, Lucknow (MVVNL)
2. PurvanchalVidyutVitran Nigam Limited, Varanasi (PUVVNL)
3. DakshinanchalVidyutVitran Nigam Limited, Agra (DVVNL)
4. PaschimanchalVidyutVitran Nigam Limited, Meerut (PVVNL)

ORDER

1. Considering the provisions of the Tariff Order approved by the Commission for FY 2014-15 and the subsequent submission made by the Petitioner, the Commission vide its Order dated November 11, 2014 allowed the OTS scheme for LMV-1(Rural), LMV-2 (Rural) and LMV-5(Rural) consumers with 100% waiver of surcharge as a special case to achieve among other things, a bigger objective of 100% metering. The OTS scheme was initially allowed for the period of November 11, 2014 to January 1, 2015 which was subsequently extended till January 31, 2015 vide Commission's Order dated November 13, 2015. In this OTS Scheme it was also directed that all
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unmetered consumers who avail the benefit of the OTS Scheme, would have to undertake to become metered consumers.

2. The Petitioner vide its Petition No. 977 / 2014 approached the Commission for further extension of the scheme till March 31, 2015 stating that the farmers have not been able to realize the complete sale proceeds of Rabi crop particularly related to Potatoes and thus have not been able to avail the benefit of the on-going scheme. The Commission in its Order dated February 26, 2015 expressed its reservation about such a scheme and asked, the Discoms to take a decision keeping in mind the financial rules etc. and also directed that the amount waived on this account will not be allowed as pass through in the ARR / Tariff or True Ups and the details of the amount waived to be provided in the relevant ARR / Tariff Petitions and True Up filings with the full details and entries in the ARR to demonstrate that the waived amount is not being passed on to the consumers / ARR in any way so as to not affect the honest consumers.
3. The relevant portion of the above Order dated February 26, 2015 of the Commission's directions are quoted as follows:

“Considering the above information and discussion the Commission feels that the Licensees lose revenue by repeatedly having OTS schemes and also the same discourages the honest consumers. The Distribution Licensees (Discoms) should also understand that OTS schemes is a only a short term measure to generate instantaneous cash flows but the loss of the Discoms in terms of surcharge waiver is always to be borne by the Licensee. However since the Discoms feel that in view of the prevailing conditions in the State and also in view of better prospects of revenue realisation for the Discoms, it is necessary to continue with the scheme, the Discoms are authorised to take decisions in this regard keeping in mind the financial rules and after taking the due approval of their boards. The Discoms may launch / extend the OTS Schemes upto 31st March, 2015, for any category of consumers at their discretion and to the extent they deem fit. It may be clarified however that the amount waived on this account will not be allowed as pass through in the ARR / Tariff or True Ups.



The details of the amount waived must be provided in the relevant ARR / Tariff Petitions and True Up filings with the full details and entries in the ARR to demonstrate that the waived amount is not being passed on to the consumers / ARR in any way so as to not affect the honest consumer.”

4. Subsequently at the time of tariff determination the Commission in its Tariff Orders for FY 2015-16 dated June 18, 2016 passed the following directions in respect to OTS:

“9. PROVISION RELATED TO SURCHARGE WAIVER SCHEME FOR RECOVERY OF BLOCKED ARREARS:

In the past, Commission has allowed OTS scheme as special case to achieve a bigger objective of 100% metering as all unmetered consumers who avail the benefit of the OTS Scheme, would had to undertake to become metered consumers. However, the Commission expresses its concern that regular implementation of OTS Scheme incentivise the delayed payments which also appears to discriminate against honest and paying consumers. OTS scheme is only a short term measure to generate instantaneous cash flows but the loss of the revenue in terms of surcharge waiver is always to be borne by the Distribution Licensees. Thus, after detailed deliberations on OTS scheme the Commission has decided to abolish the OTS scheme subsequent to applicability of this Order.”

5. Thus, the issue of utility of OTS scheme and its continuation was given a final treatment and OTS scheme was given a nice burial after careful consideration. On February 1, 2016, the Chairman of MVVNL, PVVNL, PVVNL & DVVNL however, again filed a Petition in the matter of “One Time Settlement Scheme (OTS) of 100% surcharge waiver for LMV-1(Rural) and LMV-5 (Rural) consumers for the limited period, w.e.f. the date of order to March 31, 2016”.

6. The main points of the petition are being reproduced below:

Quote

1. *That Hon'ble Commission in disposing the Petition No.: 1046/2015 dated 21.12.2015 in the matter of Installation of Meters while expressed satisfaction on the work done in respect of urban metering which has almost reached 100%, showed grave concern about rural metering and directed licensees to put all out efforts to get all the rural consumers metered. The relevant Para is as below:*

"The Commission expresses its satisfaction, and also appreciates the Discoms for the work done in respect of urban metering which has almost reached 100% level now. The rural metering, however, still remains an area of grave concern. As 100% metering has been provided for in the Electricity Act, 2003, the Commission has been repeatedly directing and stressing the licensees to achieve 100% metering & energy auditing. Hundred percent metering in rural areas is, even more important than urban areas, at the heart of making the Discoms profitable and self-sustaining. The Commission therefore, directs the licensees to now put all out efforts to get all the rural consumers metered. They need to organise this on a war-scale and show substantial progress by 30th June, 2016 failing which, the Commission may consider applying the dispensation as detailed above (no billing for unmetered consumers and double tariff for the constantly defiant consumers) for the rural consumers as well....."
 2. *In the above regard it is to submit that there are around 67 lakhs unmetered consumers under the Discoms. Most of these consumers are in rural areas and it is a daunting task for the distribution companies to meter such large number of consumers in the short span of time. In order to ensure compliance to the direction given by the Commission to accomplish 100% metering of rural consumers, the licensees conducted various drives to get the rural consumers metered despite stiff resistance from the consumers. Load of these consumers are also being verified by the licensees during these drives as per direction of the Hon'ble Commission. The purposes of these drives are to restrict unauthorized use of electricity along with ledgerization of illegal connections; which will result in reduction of AT & C losses.*
 3. *The rural consumers resist metering due to their limited financial capabilities to pay the electricity bills. In this context, it is relevant to mention that the consumers in the rural areas have faced extreme financial hardships in the*
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current financial year due to non-receipt of payments against cane crops as a result of various disputes related to minimum support price and there has also been a drought like situation in Uttar Pradesh during the past. Principal Secretary, Government of Uttar Pradesh vide letter no. 453/1-11-2014-07 (जी)/2015 dated 19 November 2015 (copy enclosed) has declared 50 districts drought affected and directed to all district magistrates/departments including power department to carry out relief activities at departmental levels to help farmers. As per information available to us, during Jun-15 to Dec-15 actual rainfall is **458.0mm** against normal figure of **876.9mm**. In every month starting from Jun-15 to Dec-15 actual rainfall is below normal. **69** District out of **75** District in UP are having below normal rainfall in Post Monsoon Season w.e.f. Oct-15 to Dec-15 (a shortfall of **30.3%** in rainfall in Post Monsoon season in UP). This has ruined badly the Kharif crop of the farmers in 50 Districts of UP and the Rabi crop is also likely to be affected. The present crisis has critically affected the paying capacity of farmers, who even otherwise find it difficult to maintain their sustenance, thereby pulling their poor financial health further spirally downward. This has led to a situation of non-payment of electricity dues by rural consumers. Accordingly, outstanding surcharge may act as a deterrent in the way of consumers coming forward to pay the bills and also in getting their connections metered in rural areas.

4. Hon'ble Commission in its Tariff Order dated 18.06.2015 for FY 2015-16 has abolished the OTS scheme subsequent to applicability of this Order. The relevant Para is as below:

"PROVISION RELATED TO SURCHARGE WAIVER SCHEME FOR RECOVERY OF BLOCKED ARREARS:

In the past, Commission has allowed OTS scheme as special case to achieve a bigger objective of 100% metering as all unmetered consumers who avail the benefit of the OTS Scheme, would had to undertake to become metered consumers. However, the Commission expresses its concern that regular implementation of OTS Scheme incentivizes the delayed payments which also appear to discriminate against honest and paying consumers. OTS scheme is only



a short term measure to generate instantaneous cash flows but the loss of the revenue in terms of surcharge waiver is always to be borne by the Distribution Licensees. Thus, after detailed deliberations on OTS scheme the Commission has decided to abolish the OTS scheme subsequent to applicability of this Order.”

In the light of circumstances as mentioned in Para 3 above the waiver of full surcharge is probably the only way to successfully accomplish recovery of the blocked revenue along with the objective of enhancing the metering and the Hon’ble Commission will appreciate that such an enormous exercise cannot succeed unless there is a favorable public response to it.

5. *Accordingly, the Commission is requested to allow **100%** waiver of surcharge under One Time Settlement scheme as a special dispensation for the **rural consumers under categories LMV-1 and LMV-5 only** for a very limited period w.e.f the date of order to **31st March 2016**. The licensees shall not seek any other OTS in the current financial year for the categories for which surcharge waiver is being sought by way of this petition. Hon’ble Commission is further requested to allow **100%** surcharge waiver without imposing the condition of commensurate compensation by way of subsidy from the State Government. In any case the OTS scheme will be in the financial interest of the Distribution Companies as the companies will be recovering the blocked revenue which could otherwise get converted into bad debt.”*

Unquote

7. Further the Petitioner has prayed to allow implementation of **100%** surcharge waiver scheme for **LMV-1(Rural)** and **LMV-5 (Rural)** consumer w.e.f. date of the Commission’s Order to **March 31, 2016** without requirement of subsidy from the State Government.
 8. The Commission on February 8, 2016 sent a letter to the Petitioner requesting it to make submission in regard to – maintainability of the petition filed, the reason for not limiting the said OTS scheme only for the 50 drought hit districts, issues & milestones in regard to 100% metering of rural consumers, confirmation that the
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waived amounts of the OTS Schemes have been dealt properly in the respective true ups so that the burden of the same is not passed in the ARR / Tariff and a few clarifications / data in regard to the past OTS Scheme (11.11.2014 to 31.03.2015). A reminder letter was sent to them on February 12, 2016. The licensees have not made any submission as yet.

Commission's Analysis:

9. Considering the above information and submissions the Commission prima facie, feels that the Licensees lose revenue by repeatedly having OTS schemes encouraging the consumers not to pay bills in time and also the same discourages the honest consumers. The OTS scheme seems to be short cut measure for Discoms to generate instantaneous cash flows without making efforts to recover their dues. It is obvious from the fact that the same OTS scheme is sought to be repeated on account of "cold", "rains", "floods" and now "drought". It is also not totally clear as to why the Discoms have wished to include eight (8) of the PVVNL districts (Meerut, GautamBudh Nagar, Bulandsahar, Muzaffarnagar, Saharanpur, Bijnor, Moradabad, J. P. Nagar) in the scheme, which have not been included even by the State Government in their list of drought hit districts. It may also be remembered that the burden of surcharge waiver under OTS is always to be borne by the Licensee which in turn affects honest consumers and discourages them from making regular payments. It is in this background that the Commission had also ruled that the amount waived in OTS Scheme will not be allowed as pass through in the ARR / Tariff or True Ups. The details of the amount waived must be provided in the relevant ARR / Tariff Petitions and True Up filings with the full details and entries in the ARR to demonstrate that the waived amount is not being passed on to the consumers / ARR in any way so as to not affect the honest consumer.

 10. Further, the Commission analysed the data of the last OTS Scheme (November 11, 2014 to March 31, 2015) and observed the following:
 1. It has been observed that the advantage of OTS schemes has been mostly availed in LMV-1 (Rural Domestic) category and LMV-5 (Private Tube wells) category. For example in PVVNL, LMV-1 beneficiaries were 63.72% of the total consumers
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registered in the Discom for the OTS scheme and they availed 48.47% of the total rebate whereas LMV-5 (Small Power for Private Tubewells / Pumping sets for irrigation purposes) were 35.87% of the total consumers registered for the OTS scheme and 51.24% of the total subsidy. So, maximum benefit per person is going in LMV-5 category i.e. to the owners of the private tube wells. However further analysis on this matter can be done only after receipt of category wise details from other Discoms (PuVVNL, MVVNL & DVVNL).

2. It is a common knowledge that private tubewells are generally owned by the bigger farmers and percentage of marginal farmers owning a private tube well / pumping set may be very small. In a State like Uttar Pradesh where marginal (less than 1 Hectare) farmers constitute 76.88% of farmers population, it simply follows that benefits of OTS scheme especially in LMV-5 category are taken away mostly by the comparatively better off farmers. Also these big farmers many a times sell their water to the poor farmers. So OTS scheme seems to be supporting the commercial activity of the richer farmers and does not seem to benefit the marginal and other subsistence farmers who are the ones who really face the hardships of drought etc.
 3. Ironically, the consumers of Banda and Jhansi divisions of DVVNL, covering 7 districts namely Jhansi, Lalitpur, Jalaun, Banda, Chitrakoot, Hamirpur, Mahoba of Bundelkhand region for whom the present OTS scheme is said to be mainly aimed at contributed only 3.47% of the total number of beneficiaries and just 3.00% rebate given in the State in the last OTS Scheme. However PVVNL (comprising the districts of Saharanpur, Muzaffarnagar, Bijnor, Meerut, Jyotiba Phule Nagar, Rampur, Moradabad, Ghaziabad, Bulandshahar, Bagpat, Gautam Budh Nagar) which has contributed to 35.48% of the total number of consumers registered for the OTS scheme, availed 28.04% of total rebate given in the State. Incidentally most of the districts of PVVNL are not in the list of drought affected districts, as notified by the State Government recently. So a major chunk of subsidy / rebate is likely to go to these non-drought districts also in the present OTS Scheme proposed by UPPCL.
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11. It is obvious that in absence of above information, the Commission cannot pass final Order in this Petition which deals with a matter of great public importance. The Commission also feels that in case of a natural calamity it is cruel to launch an OTS Scheme in which the already stressed farmers are required to pay lump sum a big amount to avail waiver of a small surcharge. It is not known if the licensees have thought of or launched any other scheme of deferment / waiver of the arrears which could have been more pragmatic approach to address the farmers' present predicament.

12. The Commission directs the State distribution licensees to submit their comments on the above observations along with the data / clarifications sought vide Commission's letter dated February 8, 2016 within 15 days.

13. The Commission however feels that in these times of acute hardship faced by the farmers in the State due to drought, as amply emphasized by the Petitioner also, the farmers need to be given some respite and succour. In this regard, the Commission has suo-moto, mulled over several options for giving relief to such stressed consumers. It may be recalled that the Commission in its Tariff Orders for FY 2015-16 dated June 18, 2015 had provided in the Rate Schedule of LMV-1(a) sub-category of consumers:

" 3. RATE:

Rate, gives the fixed and energy charges at which the consumer shall be billed for his consumption during the billing period applicable to the category:

(a) Consumers getting supply as per 'Rural Schedule':

Description	Description	Fixed charge	Energy charge)
i) Un-metered*	Load up to 2 kW	Rs. 180 / kW / month	Nil
	Load above 2 kW	Rs. 200 / kW / month	Nil
ii) Metered	All Load	Rs. 50 / kW / month	Rs. 2.20 / kWh



***Note:** All the unmetered consumers of LMV-1(a) i.e. Consumers getting supply as per “Rural Schedule” shall be converted into metered connection by December 31, 2015 beyond which the Tariff for unmetered category of LMV-1(a) shall be increased by 10%.”

14. The Commission is of the view that the above increase in Tariff (10% after December 31, 2015) will further cause hardship to such consumers who have mainly been affected by the drought in the State. Also as admitted by the licensees themselves, they have miserably failed in achieving the very important objective of 100% metering and hence because of their failure, the consumers should not be punished by asking them to pay a higher tariff (10% after December 31, 2015). Therefore considering the submissions of the licensees and other relevant facts, the Commission in order to grant relief to **all the rural domestic consumers of the 50 districts notified as drought hit by the State Government**, decides in public interest to defer the above increase of 10% after December 31, 2015, for next three months. This means that increase of 10% will now be effective only after March 31, 2016. In case the pathetic conditions of the farmers continue and / or the Petitioners fail to submit the desired information, the Commission would consider extending this time further. It is also clarified that in case the licensees have realised this increased tariff from the consumers, then such amount should be adjusted in their future bills. In case the State distribution licensees wish that the relief should be extended to rest of the districts also, they may approach the Commission with details to substantiate its request. It may be clarified that these Orders would have no bearing on the final Orders that the Commission may eventually pass in this Petition on the issue of OTS Scheme.

15. Further all distribution licensees and UPPCL are directed to upload all orders being issued by the Commission on their respective websites for the easy access of all the stakeholders and the public at large, also if required they must follow the Clause 139 of the UPERC (Conduct of Business) Regulations, 2004 and its amendments from time to time.



16. The Petition would be listed, after getting the desired information from the Petitioners.

(I. B. Pandey)
Member

(Desh Deepak Verma)
Chairman

Place: Lucknow

Date: February 18, 2016