

## CHAPTER – 3

### SUGGESTIONS & OBJECTIONS

**3.0** In seeking informed public opinion on the ARR and tariff petitions filed by ESCOMs, the Commission had written to the Members of Parliament and Members of Legislature, requesting them for their views in the matter. In response, the Commission has received the views of the following persons as discussed below :

**3.1 Hon'ble Shri Siddaramaiah, Leader of the Opposition, Karnataka Legislative Council**

The Hon'ble Leader of the Opposition has expressed the view that the State is facing serious shortage of power mainly due to failure in augmenting its generation capacity, as also due to inadequate use of the existing capacity.

Among various suggestions, the Hon'ble Leader of the Opposition has emphasized that the transmission and distribution losses should be drastically reduced and purchase of high cost power from private generating companies should be avoided. Government should pay to ESCOMs Rs.9770 Crores as electricity dues and allow them to function with autonomy.

The Commission has considered the views expressed by the Hon'ble Leader of the Opposition, Karnataka Legislative Assembly. The Commission is considering tariff petitions of the Distribution Companies in the light of their revenue and expenditure, with a view that they work economically and efficiently. While considering increase in tariff, the Commission has allowed the cost of power purchase and other costs after looking into the justification for such expenditure and the procedure followed. Further, the Commission has issued several directions for achieving reduction of losses and improvement in the quality of service. The Commission has also directed all the ESCOMs to

take urgent steps to realize the outstanding dues not only from private consumers, but also from Government and local bodies.

### **3.2 Hon'ble Shri Prahlad Joshi, Member of Parliament**

The Hon'ble Member of Parliament has noted the recent increase in the prices of petrol and other essential commodities and observed that increase in power tariff will further add to inflation. He has pointed out that the unrealized dues of ESCOMs, as also the technical and commercial losses in the distribution systems have to be controlled to prevent the losses sustained by the utilities. He has urged the Commission to take a practical view after considering the above issues, while keeping in view the financial viability of ESCOMs.

The Commission has taken note of the points made by the Hon'ble Member of Parliament. The Commission has issued several directions to the Distribution Companies for reduction of losses, both technical as well as commercial. The Commission has also directed the utilities to improve the revenue recovery, besides arrears and improve the quality of service to the consumers. Further, the Commission is verifying the costs, etc., before granting any increase in tariff. The Commission will monitor the performance of the ESCOMs more closely to ensure that the consumers' interests are served more efficiently.

### **3.3 Hon'ble Shri M.V. Rajashekharan, Former Minister for Planning and Member, Karnataka Legislative Council**

The Hon'ble Former Minister and Member of the Karnataka Legislative Council has expressed the view that the increase sought by ESCOMs is too high and it should be moderated considering the interests of the consumer public, particularly the rural consumers. The ESCOMs should be made to reduce the transmission and distribution losses and take strict measures to prevent theft of power.

The Commission in its present Tariff Order has considered the above points and has considerably moderated the increase in tariff. Further, the Commission has issued several directions to reduce distribution

losses, as also to improve the quality of supply and services to the consumers.

### **3.4 Hon'ble Shri Ashwathanarayan, Member of Karnataka Legislative Council, Mandya**

The Hon'ble Member of the Legislative Council has drawn the attention of the Commission to the large number of electricity-related accidents taking place mainly in the rural areas, involving both people and livestock. He has urged that the Commission should consider getting ESCOMs to focus on safety instead of seeking unreasonable increase in tariff.

The Commission shares the Hon'ble Member's concern on the electrical accidents taking place. The Commission therefore has directed the Distribution Licensees to prepare a concrete action plan for reduction of accidents and will pursue it vigorously in the days to come.

### **3.5 Public Hearings:**

In the public hearings on BESCO's tariff application conducted by the Commission on 12.09.2011 and 22.09.2011, several consumers have participated with enthusiasm. Time for filing objections was also extended till 19.09.2011 which could be presented / considered in the hearing on 22.09.2011. It was observed that many of the objectors have gone through the petitions in minute detail and pointed out many discrepancies in the filing. The Commission while appreciating the efforts of the objectors in making their submissions has observed that most of the issues raised related to the lacunae in service rather than points relating to tariff.

However, the Commission desires to place on record its appreciation for the interest shown by the consumers in participating in the public hearing and giving their valuable views.

With the above, the Commission has dealt with the objections raised individually and considered them as below :

### **3.6 Laghu Udyog Bharathi, Federation of Karnataka Chambers of Commerce and Industries, Bangalore**

The above objectors have said that BESCO has not given sufficient time to file the objections and the provisions of the relevant regulations are violated. They have said that convening public hearing before the last date of filing of objections is bad in law and would amount to denial of natural justice. They have also said that BESCO has violated certain provisions of the Companies Act and has questioned the authority of the official who has signed the application for filing the tariff and APR. They have said that since the truing up of the earlier control period under the MYT regime is overdue, the Commission has no jurisdiction to even consider the application.

The objectors have further put forth their contention that segregating agricultural feeders from the existing 11 KV feeders for Niranthara Jyothi would curtail supply to IP sets in rural areas which is opposed to universal supply obligation. Hence no depreciation on account of Niranthara Jyothi should be allowed as pass through. They have urged that solar rebate should be extended to all LT2(a) consumers. The objectors have opposed regularization of illegal IP sets.

The objectors have further mentioned that out of Rs.476 Crores consumers' deposit with KPTCL a sum of Rs.205.50 Crores was capitalized and treated as government contribution to the capital of ESCOMs. The objectors are of the view that ESCOMs are on the one hand claiming ROR and on the other hand paying bank rate of interest to the consumers while also claiming interest paid as pass through in the tariff. Thus ESCOMs are claiming ROR as well as interest, which is unjust, they say.

The objectors have said that BESCO is furnishing misleading information about reliability index through its website, which should not

be done. They have said that the Government's direction to procure energy through e-procurement mode has been violated by BESCO. Hence the Commission cannot be a party to such illegality by passing it on to the consumers. They have said that power purchased without the approval of the Commission cannot be passed on to the consumers. They have opposed the methodology of calculating IP set consumption, increase in reconnection charges and introduction of compulsory TOD. The objectors have also said that power purchased at higher cost was not necessary in view of the water levels in reservoirs and conducive conditions in thermal plants.

**BESCO's reply:**

Regarding the short time given to file the objections, BESCO has replied that the company issued the first notification on 29<sup>th</sup> July 2011, inviting objections. A period of 30 working days of BESCO was allowed to file the objections. However the Commission is allowing the objectors to file their oral objections in the course of hearing. Regarding the powers of officials to make tariff filings, BESCO has said that the Chief General Manager is an officer of BESCO and is authorized by the Board to represent it before the Commission. BESCO has replied that the Commission did the truing up exercise for FY08 and FY09 vide Tariff Order 2009 dated 25.11.2009. The annual performance was reviewed and figures were trued up by the Commission vide Tariff Order 2010 dated 07.12.2010.

About the working of Niranthara Jyothi scheme, BESCO has said that the scheme will provide 24 hours power supply to installations other than IP sets in rural areas. As a result the much debated argument of discrimination of rural consumers with urban consumers gets redressed. The suggestion of the objector that depreciation should not be allowed is not appropriate. It has said that the views of the objectors on solar rebate are partly acceptable. On the issue of regularization of unauthorized IP sets, BESCO has said it has followed the directives of the State Government.

About the discrepancy in adjusting consumer deposit to the extent of Rs.205 Crores and Rs.57 Crores of IUA balance, BESCO has said that the Government had decided to re-capitalize the net worth of KPTCL/ESCOs by utilizing the balances of meter security deposit existing in the books of ESCOS. It has said that information about reliability Index is furnished to the Commission on a monthly basis and short term power purchase is through bidding only. Any violation will be looked into by the Commission. They have said that the subsidy ought to have been worked out on CDT for IP sets and BJ/KJ. Since GoK has indicated a subsidy to the tune of Rs.661.25 Crores for FY12, the same was considered for filing.

### **Commission's Views**

#### **Re Non granting of 30 working days of the Commission for filing the objections**

It is vehemently contended by the counsel appearing for FKCCI that adequate time for filing objections has not been granted in terms of Regulation (5) of KERC (Tariff) Regulations, 2000 thus violating the principles of natural justice of giving sufficient opportunity. As the objection is based on Regulation (5) of the KERC (Tariff) Regulations, 2000, the same is extracted below :

"1. The Licensee shall arrange for publication of a Petition on ERC Filing or Tariff Filing for following manner (emphasis supplied):

- (a) The summary of the Petition, in such format as may be approved by the Commission shall be published in two successive issues each of two daily newspapers in English language and two daily newspapers in Kannada language having a circulation in the area of operation of the Licensee. The advertisement should invite interested persons to file their objections and such documents as they seek to rely upon supported by an Affidavit, in six copies, within 30 working days of the first advertisement and also indicate whether they would like to be heard in person by the Commission.
- (b) The Licensee shall also specify in the advertisement that interested persons may inspect the copies of the petition at specified offices of the Licensee during normal working hours within 10 working days of the publication of the notice and also obtain the salient feature

of the petition at such specified place on payment of cost of photocopying (emphasis supplied).

- (c) The Licensee shall also mention in the advertisement that the full set of the application together with supporting materials would be made available to any interested person who may ask for it on payment of cost of photocopying (emphasis supplied)".

If we read the above Regulation carefully, no doubt remains that the time to be granted is the working days of the licensee and not that of the Commission. Under the Regulation, it is the licensee who is required to publish its petition. Further, the intention of the Rule is to provide sufficient opportunity to the consumers to file their objections which is 30 days. According to the Commission, grant of 30 working days of the licensee fulfills the requirement of the Rule and the principles of natural justice fully. Therefore there is no merit in the objection raised.

The learned counsel for the objector brought to the notice of the Commission that the writ petition in No. WP 34104 – 34106 of 2011 has been on the same issue before the Hon'ble High Court of Karnataka and therefore any order to be passed by this Commission will be subject to the orders of the Hon'ble High Court of Karnataka in the writ petition. The Commission entirely agrees with the counsel and observes that the above finding of the Commission on Regulation (5) of the KERC (Tariff) Regulations, 2000 is subject to the decision of the Hon'ble High Court of Karnataka in the pending writ petition.

### **Re Violation of Companies Act**

A similar objection was raised last year also. This Commission after considering the said objection rejected the same for the reasons stated therein. The present objection is a repetition of the same. Under the Tariff Regulation also, it is not prescribed who shall sign the petition. Therefore any officer of the licensee if authorized can file the petition. Duly following the earlier decision of this Commission in the Tariff Order dated **07.12.2010** and in the light of the provisions of Tariff Regulations, the Commission holds that there is no violation of the Companies Act.

The judgments referred in support of his contention by the objector's counsel have no application to the present proceedings, as the officer who has filed the petition is authorized by the Licensee's Board and has not acted in an individual capacity.

The petitioner company has explained the reasons why it could not file the present petitions within the time prescribed. On consideration of the reasons stated for delay in filing, the objection has to be rejected. As regards delay in filing the petition, the Hon'ble Appellate Tribunal for Electricity in the case reported in 2010 ELR (APTEL) 0175 has held that if a licensee is unable to file ARR petition due to some reasons it will not be proper to say that the application has to be rejected. What could be done in such a situation is that the carrying cost can be denied and not the revenue recoverable for the period of delay. As regards taking up of trueing up exercise, the same has been done while dealing with Annual Performance Review application filed along with the Tariff Petition. However, consideration of tariff petition is not required to be postponed.

#### **Re Not Allowing Depreciation on the Assets to be Created to Implement Nirantara Jyothi Scheme**

The investment made for Nirantara Jyothi Scheme is for making efficient supply of electricity to the rural consumers and is also to regulate power supply to the IP Sets in a scheduled way and therefore has to be treated as capital investment and has to be considered for allowing depreciation. Otherwise, BESCO will not be able to repay the loans raised for this Scheme.

#### **Re Solar Rebate**

The suggestion made is noted.



**Re Regularization of Illegal IP Sets**

The objection on regularization of unauthorized IP Sets is raised without noticing the direction issued by this Commission in the Tariff Order of 2009 and 2010. In those orders the Commission itself had directed the licensees to regularize the unauthorized IP Sets. Regularization is ordered with a view to bring all IP sets on record and to account the electricity supplied to them. No exception can be taken to the same.

**Re Discrepancy in Consumers Security Deposits**

A similar objection was raised in the tariff filing of FY10 has already been considered and rejected by the Commission. In the said Order, the Commission has clarified that RoE is allowed only on the amount treated as equity. Further no interest is allowed on the amount treated as equity capital. During the course of hearing, it was submitted that the security deposit cannot be used as capital for its works. The Commission do not find anything wrong in using the security deposit for capital works so long as the same is paid back when consumers desire. Further, the Commission observes that use of security deposit for capital works is to the advantage of consumers as otherwise ESCOMs have to borrow the amount at a higher rate of interest which is again a pass through.

**Re Short term Power Purchase and Violation of KTPP Act**

It is contended that the approval granted by the Commission to the short term power purchases is violative of Section 86(3) of the Electricity Act, 2003. This has no merit. The Commission has approved the short term power purchase only after satisfying itself on the shortage of electricity and need to procure the same. Further, it has considered that the rates that were obtained for procurement were through competitive bids as per Section 63 of the Electricity Act, 2003 and the Commission has only to adopt such rates if power has to be procured.

**Violation of KTPP Act**

The KTPP Act will have no application to the purchases made as per provisions of the Electricity Act, 2003. As held by the Hon'ble Supreme Court in the case reported in (2008) 4 SCC 755, the Electricity Act, 2003 is a special Act and it overrides with the provisions of the KTPP Act so far as power purchase is concerned. At any rate, as the petitioner utility has to follow bidding procedure in purchasing the electricity no fault can be found with the same.

**Re Energy Input**

This is considered while passing the order at the appropriate place.

**Re IP Set Consumption**

There is no truth in the contention that IP consumption is being manipulated. The Commission accepts the consumption figures furnished as they are based on a methodology approved for assessment of consumption in the absence of metered consumption.

**Re Power Purchase Cost**

The contention is that in case of shortage power should not have been purchased and instead supply should have been regulated.

The Commission believes that it is the duty of ESCOMs to try to meet the demand for power from their consumers to the maximum extent consistent with keeping the cost of procurement within reasonable limits. The industrial and commercial enterprises, in particular, incur high costs if they are unable to obtain grid power as per their demand. The views expressed by the objectors on this issue are therefore not based on a correct appreciation of the impact of inadequate supply on consumers.

**Re Purchase of electricity under Section 11 of the Electricity Act, 2003**

The Government which had invoked Section 11 of the Electricity Act, 2003 in public interest and in the interest of the consumers cannot pay for the power purchased. The notifications issued under Section 11 of the Electricity Act, 2003 were to provide more electricity to the consumers and the consumers shall have to pay for the same.

**Re UI Purchases**

The electricity drawn under UI is the price paid for power which is drawn to balance the unforeseen demand arising out of system operation and is not to be considered as procurement of power in the usual sense.

**Re Other Debits, RoE, Income Tax, Rationale of Fixed Charges**

These are dealt with at the appropriate place.

**Re Production of Audited Accounts:**

The objector at the time of making oral submissions emphasized that the applicant should have produced audited accounts for the purpose of determination of tariff and having not done so, the application has to be rejected. The objector also brought to the notice of the Commission, the Order of the Hon'ble Appellate Tribunal for Electricity in Appeal No.56/2010 and Appeal No.37/2010 in support of its contention.

The applicant has filed the audited accounts for FY10 duly certified by the CAG and has produced provisional accounts for FY11 as the accounts of that year were under audit when the present application was filed. Further the Commission observes that in case there is any change in the position as given in the provisional accounts after audit, the same can be considered and given effect to while conducting the Annual Performance Review for FY12 along with the tariff

application to be filed for FY13. The cases on which reliance has been placed by the objector have no application to the present petition as in those cases audited accounts certified by statutory auditors were not filed. However, as the accounts of BESCO are under audit, we direct that the audited accounts shall be submitted to the Commission within two weeks of the completion of the audit.

### **3.7 Bengaluru International Airport Limited [BIAL], Devanahalli, Bengaluru**

The above objector has said that the time given for filing its objections was not according to the relevant regulations and as a result the objector could not file a detailed statement of objections. Hence, to cure this patent defect the objector made a submission that tariff proceedings may be deferred. The main contention of the objector is that BESCO has not created a separate category for airports as it has been decided by the APTEL in one of its decisions. They have said that while Bangalore Metropolitan Railway Corporation [BMRCL] is brought under HT2(a)(i) the energy and demand charges are differently structured in respect of BIAL. They urged the Commission that BIAL should be brought under HT2a(ii).

The objector has further said that the tariff increase across all HT categories is illegal and untenable and it is not in accordance with the National Tariff Policy. They have said that the average cost of supply should be determined on specific tariff categories and on a scientific methodology. The HT consumers should not be saddled with the burden of cross subsidy. The objectors have mentioned that the electricity tax levied is an additional tariff in the name of consumption tax.

#### **BESCO's reply**

Regarding the short time given to file the objections, BESCO has replied that the company issued the first notification on 29<sup>th</sup> July 2011, inviting objections. A period of 30 working days of BESCO was allowed to file the objections. However the Commission is allowing the objectors to file their oral objections in the course of hearing. On the

question of classification of tariff, BESCO has said that as per the Government of Karnataka policy, tourism, communication, BPOs and IT enabled services are considered as industry. But for the purpose of tariff, these are considered as commercial.

BESCO has replied that if the energy used for operation of Aeroplanes is separated from Airport, then BESCO would have no objections and with due approval of the Commission to bill this energy under industrial tariff. BESCO has said power supply to BMRCL is on 'no profit no loss' basis and cannot be compared to BIAL. Regarding cost to serve, BESCO has replied that the Commission will suggest uniform methodology for development of cost to serve.

BESCO has furnished details of fixed charges in support of its claim that reduction in fixed charges is not tenable. On the question of electricity tax, it has said that it is not in the purview of the Commission. However, the Chief Electrical Inspector has made a proposal to the Government of Karnataka to amend the Karnataka Electricity (Taxation on Consumption) act, 1959.

### **Commission's Views**

The counsel appearing for the objector has raised the following issues :

- Denial of natural justice
- Categorization of Airport under HT-2(b)(ii)
- Comparison of its tariff to BMRCL

In the objection based on the denial of natural justice, it is already considered while dealing with FKCCI objections and has been negated.

As regards demand for a separate classification for the Airport, it has to be held that the classification of the Airport under HT 2(b) is in order and does not need any change. It is observed that HT-2(b) category not only includes Airports but also Railway Stations and Bus Stands who perform similar functions as that of BIAL. Similar consumers have been treated similarly. It is observed from the past Tariff Orders that Airport is

classified as HT-2(b) since 1990 and the same is continued in the case of BIAL also since its establishment. The objector had never raised any issue in this regard till now and is operating the Airport based on the same. The objector BIAL cannot compare itself with BMRCL as the business model of BMRCL is fundamentally different from that of BIAL. The objector has also not produced any factual material such as its balance sheets even though the same was sought for at the time of hearing in support of its demand for lower tariff. It is reported that the objector is making substantial profits and any additional levy will be only a pass through as an item of expenditure to the users of the Airport.

We are of the view that the decision of the Hon'ble APTEL in the Mumbai International Airport's case does not really support the objector's plea for treating BIAL separately.

In the Mumbai Airport case, it is observed that the Maharashtra Commission had clubbed the Airport with commercial malls and others and the increase was quite substantial as compared to the other categories. The Hon'ble ATE has found fault with the same and also the reasons given in support of the classification made by MERC. In the present Order, Airport is classified along with similar consumers and hence no exception can be taken to the same.

The reliance of the objector's counsel on the judgments wherein Airport has been held to be industry have no application to the tariff to be determined under the Electricity Act, 2003. Airport may be an industry in the context of the other statutes and not under the Electricity Act, 2003 as the word 'industry' is not defined separately under the Act. In this context it may be useful to refer to the relevant paras of the judgment of the Hon'ble High Court of Karnataka in WP Nos. 22738 of 1990, wherein Hotels had claimed industrial tariff, which reads as under :

“The problem of classification has come up before courts often and on. After a survey of various decisions of the Supreme Court a Division Bench of this court in STATE OF KARNATAKA –vs- GANESH KRISHNA BHAT (ILR 1990 KAR 1045) stated the law as follows:

“The object of subjecting taxing power to Article 14 of the Constitution is that the State should evenly and equitably distribute the burden of taxation. The Courts allow a wide latitude to legislative classification as there could be more than one classification and if the legislature selects one of them Courts would not be justified in interfering on the ground that the legislature ought to have adopted another basis which was more reasonably according to the Court. Hence, Courts interfere only in cases where classification is capricious, fanciful, arbitrary, or clearly unjust. A classification can be over-inclusive or under-inclusive. In the former case situations or classes, which ought to have been included are brought within the ambit of law and in the latter case situations or classes, which ought to have been ordinarily included are left out. In either case it does not seem proper to strike down the classification as a whole, unless it is incapable of extrication into the good and the bad or is so patently arbitrary and unjust”

“The argument advanced is that hotels, boarding and lodging establishments form part of the tourism activity in the country which is held to be an industry. Not only that. The meaning attributed under the Factories Act has been allowed to be applied in the context of other enactments to classify these establishments as industries and in this context reliance is placed on two decisions of this Court in EAST WEST HOTELS LTD. –vs- EST(1986(1) LABOUR LAW NOTES 840) and (1984(1) LABOUR LAW NOTES 657) to say that hotel constitutes an industry. Reliance also was placed upon a judgment of the Supreme Court M/s MSCO PVT LTD. –vs- UNION OF INDIA (AIR 1985 SC 76) to say that in a broad sense industry ordinarily means the process of manufacture or production. In the Act as there is no definition of industry hotels should have been classed as industry under HT-2(a) and

not under HT-(b) and the same rates should be made applicable to them”.

“The Petitioners do not contest the position that the respondent-Board has the power to make classification of consumers into different categories for the purpose of fixing tariffs. If that power is borne in mind it becomes irrelevant whether an establishment is classified as an industrial or a commercial establishment for what is relevant is the rate applicable and not the categorization as such. Categorization by itself has no relevance or meaning in the impugned notification if we ignore the rate. In the impugned notification for the purpose of rate fixation categorization has been made. While classifying an establishment as industrial or commercial, whether an establishment falls under either category, it should be open to classify it as either. Therefore, what follows logically from it is that it is not necessary to examine whether a hotel is an industry or not as long as it is also a commercial establishment. If the Board chooses for the rate purposes to put it under a heading commercial and so HT-2(a) or HT-2(b) is the class under which rates are going to be paid by it, then the argument loses all its force. If the categorization had been merely HT-2(a) industrial and HT-2(b) commercial, without further specification which come under either category, the petitioners argument could have been right. After broad classification made there is a further categorization for the purpose of rate, it cannot be said that such categorization is impermissible”.

“Further the reliance upon the decision rendered in the context of labour enactments cannot have any relevance to the present problem as in those enactments there is specific definition of industry, factory or manufacturing process. In that background those decisions have been rendered. The submission that for certain purposes hotels may be deemed to produce ‘food’ still it is a moot point in the absence of any special or defined terminology of manufacturing process, whether manufacture is involved in mere processing or



preparation of food. The dominant activity of a hotel is to render service to its guests and hence cannot be classed as an industry in a general sense. Supply of food stuffs must be regarded as ministering to a bodily want of satisfaction of human need and the service is concomitant of hospitality as held in AIR 1978 SC 1591. Hence, I find no merit in the first contention of the learned counsel for the petitioners"

The said judgment has been upheld by the Division Bench of the Hon'ble High Court in WA No.1230/91 and an appeal filed against the same also appears to have been rejected by the Hon'ble Supreme Court at the admission stage.

The above judgment applies to the contention raised by BIAL equally even though the said judgment was in the context of the Electricity (Supply) Act, 1948.

### **3.8 Sri V.S.Kattarya Brig, Chief Engineer (AF) Military Engineering Services, No.2, DC Area, MES Road, Bangalore**

The above objector has stated that their HT installation is being billed under HT2 (a) (i) tariff and has requested the Commission to advise BESCOM to change the tariff from HT2 (a) (i) to HT4 (a) as applicable for hospital service.

#### **BESCOM's Reply**

BESCOM has replied that the above hospital is not catering to the needs of the public and the equipments installed in the premises at IAM (IAF), Air Port Road, Bangalore are used for testing the mental attitude, blood pressure etc. of pilots. Hence the present billing is in order.

#### **Commission's Views**

The issue raised relates to application of tariff. From the material produced by the objector it is clear that electricity is availed not for the hospital to treat patients but to the Institute of Aerospace Medicine to

impart education. HT 4(a) classification only includes Hospitals and not educational institutions. However, the consumer may approach the appropriate Forum for redressal.

### **3.9 The President, Consumer Care Society, Bangalore. Forward 68, Bangalore, Akhila Bharat Grahak Panchayat, Bangalore Metropolitan Area, Bangalore**

The above objector has stated that the growth rate of demand projected by BESCO is very high and not based on facts and figures. Therefore the Commission has to make a detailed analysis before the growth rate projected by BESCO is accepted as it involves huge investment, power purchase cost etc. The objector has also stated that the delay in filing the tariff petition shall be viewed seriously as it affects the interests of the consumers. Regarding purchase of power the objector has stated that BESCO has given that responsibility to PCKL, thereby surrendering its important function.

The objector expressed his dissatisfaction about the reply regarding electricity consumption of households. On the basis of detailed figures, the objector has said that BESCO has realized a much higher per unit price of Rs.4.47 as against Rs.4.17 worked out by the Commission.

Regarding power purchases, the objector has sought the information about the purchases made by BESCO through competitive bidding and the rates at which it was purchased. He suggested that the transmission loss is to be restricted to 3.98% and should be on KW basis and not on kWh basis. He was of the view that in view of sufficient rains in the state, BESCO has to be allocated more quantity of hydel power and in this connection he has advised the BESCO to approach the Government to revise the allocation. The objector took objection to the fact that BESCO has not provided any explanation for the excess short-term purchases.

The objector has questioned the proposed increase in cost of supply of BESCO as against the reduction of cost of supply in other ESCOMs viz.

GESCOM and HESCO. He has also questioned the hike in average per unit cost of electricity at the generating point, which is projected at Rs.3.72 per unit. The objector is of the opinion that the cost of procuring power for BJ/KJ and IP sets is 4892 MU. However the subsidy from GoK has been indicated as Rs.661.25 Crores instead of Rs.3037 Crores. The difference should be added to BESCO's ERC of FY12.

Regarding other operational expenses, the objector said that the amount sought by BESCO is revised from Rs.1125 Crores to Rs.1340 Crores. This is mainly due to adding regulatory asset created as per the Commission's order. He also questioned the uniform increase of 88 paise per unit across all categories of consumers except BJ/KJ and IP sets.

### **BESCO's Reply**

In its reply BESCO has stated that it has decided to increase the sales growth to 24%. However it has said that in the actual for the 1<sup>st</sup> quarter of FY 12 the growth rate is 15.43%. About delay in filing its APR for FY11, BESCO has said that this was because the ERC and tariff filing for the second control period was under consideration by the Commission. It has said that the energy requirement of all ESCOMS is furnished to PCKL, the nodal agency, which is coordinating power procurement activity. It has said that this entity is created by the Government in the interest of consumers of the State.

On the question of HT/LT ratio, BESCO has said that it has complied with the directives of the Commission and it has achieved a ratio of 1:1.63 from the previous figure of 1:2.05. BESCO has said that the comments of the objector regarding furnishing of MW load through intrastate ABT process are noted. On other issues like DTC metering it has said that the same is furnished to the Commission. About the power requirements of BJ/KJ and IP sets, BESCO has replied that based on the tariff fixed by the Commission the subsidy works out to Rs.731 Crores  $(1.41 \times 4756.63 \text{ Mu} / 10)$  plus  $(4.43 \times 136.22 \text{ MU}) / 10$ . However

the Government of Karnataka has indicated a subsidy of Rs.661.25 Crores for FY 12. Hence the same was considered for tariff filing.

### **Commission's Views**

The Commission has already dealt with the objection relating to delay and has rejected the same. As regards PCKL's role also, the contention of the objector is not correct as PCKL only acts on behalf of and at the request of ESCOMs. As regards power purchase costs, the same is dealt at the appropriate place.

### **3.10 M/s Saravana Alloy Steels Pvt. Ltd, Bangalore**

The above objector's main contention is that the power tariff in the neighbouring states is lower when compared to the objector's industry in Karnataka. Hence the objector wants the Commission to reject the tariff petition and also introduce bonus to consumers who maintain power factor beyond 0.90.

### **BESCO's reply**

In its reply, BESCO has said that power purchase cost depends on a host of factors like hydro-thermal mix, subsidy provided by the government, ratio of subsidized category to subsidizing category etc. Hence the rates prevailing in other states will not be relevant for the present revision sought from the Commission. Regarding incentives/bonus for maintaining power factor, BESCO has said it will follow the directives of the Commission.

### **Commission's Views:**

The submission of the objector for rejecting the tariff on the ground that neighbouring states' tariff are lower does not merit acceptance for the reasons stated by the licensee in its reply to the objections. The issue relating to Power Factor Bonus has been considered in the objection filed by Railways. The decision thereon applies to this objector also.

### **3.11 P.L.Rao, Residents Welfare Association, Prashanthnagar, Bangalore**

The above objector has alleged that power tariff is being revised in the state frequently without plugging the loopholes and improvement in the working of BESCO. He has said that in view of the availability of hydro resources, power purchase can be reduced. He has also said that determination of tariff for each category is not being done on a scientific basis.

The objector further mentioned that the state government has announced 25% pay hike from 1.4.2010 and he objected to this. He has further pointed out that as a result BESCO may demand another tariff hike.

#### **BESCO's reply**

About the frequency of tariff hike, BESCO has replied that tariff was not revised from October 2005 to November 2009. Increase in tariff is essential due to increase in power purchase costs. Regarding the power supply to IP sets and BJ/KJ installations, BESCO has said that the Commission will review the rates. But it is a social obligation. On the question of purchasing power from outside sources, BESCO has replied that the generating stations in the State and the Central Generating Stations contribute an average of 120 MU as against the demand of 150-160 MU per day. Hence energy is to be purchased from other sources. Regarding availability of hydel sources, the Commission will decide

Further it has said that employees cost constitutes only 6% of the total expenditure. Payments to employees are as per the agreement between the management and the trade union.

### **Commission's Views**

The Commission has taken note of the reply of the petitioner which adequately answers the questions raised by the objector. Further the Commission while considering the power purchase cost has taken into consideration higher availability of Hydel Power pointed out by the objector.

### **3.12 Gem Properties Pvt. Ltd, Tumkur**

The above objector has said that BESCO has been increasing the tariff frequently the last being in January 2011. He said that the energy charges in the neighbouring states are lower than in Karnataka. Yet the electricity companies in those states are performing well compared to BESCO. The objector suggested some measures to be taken by BESCO to improve the quality of supply and service without revising the tariff.

#### **BESCO's reply**

BESCO has replied that the power purchase cost depends on a host of factors like hydro-thermal mix, subsidy provided by the government, ratio of subsidized category to subsidizing category etc. Hence the rates prevailing in other states will not be relevant for the present revision sought from the Commission.

BESCO has replied that it has taken several steps to improve its performance. It has said that due to measures like DTC energy audit, RAPDRP, Niranthara Jyothi etc. the distribution loss has come down from 26.03% in FY04 to 14.55% for FY11. it is proposed to reduce the loss further to 14.5%. BESCO has said that the incentive scheme was withdrawn due to financial crunch.

### **Commission's Views**

The views expressed in relation to the objection of M/s. Saravana Alloys applies to objections raised by this objector.

### 3.13 Bangalore Water Supply & Sewerage Board, Bangalore

The above objector has said that the proposed increase in tariff is more than 60% when compared to the tariff of 2005 and 23% increase from the existing tariff. Further the Commission had allowed a part of the tariff during the previous tariff increase. BESCO has filed the present application on the misinterpretation of Clause 2.8 of the KERC regulations. He further contended that there is delay in filing the APR and as such it is not maintainable. BESCO has not furnished any additional information than what was submitted earlier. Hence the need for 88 paise increase is not substantiated.

Regarding power purchase cost, the objector has said that the track record of BESCO indicates that the actual quantity of power that it purchases and sells is generally lower than the projections made by it. Therefore the projection made by BESCO warrants reduction. The objector said that the tariff revision for FY 12 is based on projected power purchase of Rs.10545.57 Crores, as against the approved figure of Rs.6913.68 Crores, which is 152% in excess. The energy available at interface point as proposed is 27178.38 MU as against the approved figure of 23491.07 MU (15% increase). This has not been explained by BESCO, as contended by the objector.

He said that the tariff petition does not have details for items like depreciation, advance against depreciation and interest & finance charges, which have to be considered while determining the tariff. They have also said that BESCO has not complied with the directives of the Commission.

#### **BESCO's reply**

BESCO has replied that it has not revised the tariff from October 2005 to November 2009. The present proposal to increase the tariff is mainly due to increase in power purchase cost, which was Rs.4.18 in FY09 and is estimated to be Rs.5.11 in FY12. On the question of delay in filing the

APR, BESCO has replied that BESCO was supposed to file its APR for FY11 on 30<sup>th</sup> November 2010. Since the filing process had commenced and tariff determination was under consideration of the Commission, further filing of tariff could not be taken up. The Commission vide its letter dated 25.04.2011 directed BESCO to file tariff application FY12.

Regarding the non-availability of details of other expenses, BESCO has said that other than power purchase cost and O&M cost no other additional information is available to modify the forecast made under MYT filing for the second control period. Hence the same figures are retained. On the question of energy requirements/demand, BESCO has replied that the same was furnished to PCKL, the Nodal Agency, which is coordinating the power purchase energy and cost is planned and allocated to all ESCOMS by PCKL. The same has been considered.

### **Commission's Views**

The objection relating to delay is already dealt with and the same applies to this objection. As regards estimation of power requirement, Commission has considered the same at the appropriate place. It is submitted by the Counsel for BWSSB that power cost is the main component of Water Supply cost and any increase will result in increase of water tariff. In the Commission's view, this is material. But on this count the application for revision cannot be rejected as in its opinion tariffs have to reflect the increased cost.

### **3.14 Sri.Y.G.Muralidharan, Consultant (Office of Consumer Advocacy, KERC), Sri.Manjunath Reddy, CREAT Network, Janajagruthi Vedike, Chintamani, Sri B.S.Nagaraj, CREAT Network, Shimoga and Sri.S.D.Ananthrama Singh, Advocate, Shimoga**

The above objectors have raised the issue of the uniform increase of 88 paise per unit sought by all ESCOMS. They have said that since each of the ESCOMS are supposed to be independent and have a different consumer profile, capital structure etc. such uniform deficit is inconceivable and has requested the Commission to make an analysis of the Accounts of all ESCOMS.



They further submitted that details of allocation of power by the Government should be made available to the public and should form part of the ARR. They have said that the public should be able to assess the role of the government and its effect on the functioning of the ESCOMS. Further, the objectors have asked the Commission to study the legal implications of the state assuming the authority to allocate power to ESCOMS.

On the question of short-term power purchases over and above the rate fixed by the Commission in its Tariff Order 2010, the objectors have said that the Commission should not pass on the burden to the consumers. They have also said that there is no information whether ESCOMS have sought the permission of the Commission.

Further, the objector opined that the growth rate projected by BESCO is exaggerated. On the question of creating Regulatory Assets, the objector has quoted a decision of the ATE and have urged the Commission not to allow ESCOMS to create Regulatory Assets. The objectors also suggested some measures to protect the interests of the consumers, particularly about avoiding accidents

### **BESCO's reply**

BESCO has replied that uniform increase in tariff has been proposed keeping in view the consequences of any discrimination. However a differential tariff for rural consumers is in vogue. BESCO has replied that the PCKL is a Government Company formed to coordinate with all the ESCOMS. The Government of Karnataka, being the owner, allocates power to companies through an Order.

Regarding short and medium term purchases, BESCO has replied that purchases above the price cap of Rs.4 per unit for the period from September 2010 are subject to approval by the Commission and this price cap is not applicable to the period before 07.12.2010. On the question of creating regulatory assets, BESCO has said that it will

abide by the orders of the Commission. It has said that BESCO has achieved a growth rate of 15.43% in the first quarter of FY 12 and hence a growth rate of 24% is projected. It has also said that steps are being taken to protect the interests of the consumers and a Safety Committee is formed to tackle the issue of electrical accidents.

### **Commission's Views**

The contention as regards uniform increase in tariff has been considered by the Commission while passing this Order and has determined the appropriate tariff for each of the Company taking into account the factors mentioned therein. As regards allocation of power by the State Government the Commission does not find anything wrong in the same as the State has tried to allocate power considering relevant factors such as financial viability of the Company, consumer mix, etc. As regards short term power purchase over and above the rate fixed by the Commission in its Order dated 7.12.2010, the Commission approves purchase of power only as per the projected demand and when procured as per transparent procedure. As regards growth rate projected by BESCO, Commission has considered the same and has revisited the same.

### **3.15 Universal Air Products Pvt. Ltd, Bangalore**

The above objector has said that since 40% of power is produced through hydel sources, the tariff should be low, whereas it is high when compared to neighbouring states. They complained about the quality of power supplied by BESCO.

#### **BESCO's reply**

BESCO has replied that power purchase cost depends on a host of factors like hydro-thermal mix, subsidy provided by the government, ratio of subsidized category to non-subsidizing category etc. Hence the rates prevailing in other states will not be relevant for the present revision sought from the Commission.

BESCOM has replied that it has taken several steps to improve its performance. It has said that due to measures like energy audit, RAPDRP, Niranthara Jyothi etc. the distribution loss has come down from 26.03% in FY 04 to 14.55% for FY11. It is proposed to reduce the loss to 14.5%.

### **Commission's Views**

On the issue of cost of power in other states, the Commission agrees with the explanation offered by BESCOM. As regards quality of supply, the Commission has given directions to BESCOM to improve the quality of power supply and reduce the transmission losses.

### **3.16 South Western Railway, Hubli**

The above objector has said that Railways being a public utility, any increase in tariff will affect their performance. Their main objection is that the ongoing electrification work will suffer due to tariff hike. Hence they have asked the Commission to exempt railway traction (HT2(a)(ii)/(i)). They have suggested that a suitable incentive scheme be introduced for power factor above 0.90, since they have provided costly capacitor banks at various traction substations as well as HT installations. The objectors have also requested reduction of Rs.2.45/unit for the railways on HT4 tariff. Alternatively LT2(a) tariff should be extended to the railway staff quarters. They have also suggested creating a separate tariff for consumer taking bulk LT domestic supply at one point. The function of the power distribution to the individual Railway Staff Quarters, can be entrusted to the Railways themselves.

### **BESCOM's reply**

BESCOM has replied that different categories of tariff are applied to railways depending upon the nature of usage. The major tariff applicable to railways is railway traction, for which industrial tariff is being applied. The core activity of the petitioner is industrial, however the other commercial activities inside the petitioner's premises will yield

additional revenue. Domestic tariff to its employees is its obligation. Hence comparing the core activity with other categories is not correct.

With regard to the demand for a separate category for traction, BESCO has replied that the Commission has taken a view. Other industrial consumers are paying a higher rate for the consumption more than one lakh units. Regarding the impact of tariff hike on the present and proposed projects of the objector, BESCO has mentioned that the objector cannot seek exemption from tariff hike, as they pass on their cost to the users. A separate tariff already exists for the Railway traction.

On the question of providing power supply to domestic consumers, BESCO has said that it is up to the objector to provide power supply to its employees through its own network or BESCO's network.

### **Commission's Views**

The contention that increase in tariff will affect electrification work is not correct as the objector will recover the same through its users which include commercial users also. When ARR of BESCO has gone up on account increase in input cost including power purchase cost, there is no other go except to augment its resources through tariff. Railways cannot be exempted from the hike required.

As regards demand for incentive of power factor bonus, on the ground that Railway has invested on capacitors, it cannot be considered as maintenance of 0.90 or above power factor helps the consumers in terms of lesser demand charge besides reducing losses. The issue of grant of power factor bonus had come before the Hon'ble High Court of Karnataka in the case reported in (1993) 1 KLJ 160. The Hon'ble High Court after considering the arguments advanced in support of grant of bonus rejected the same for the reasons that there is no justification to grant the bonus. This judgment has been upheld by the Division Bench in W.A. No.189/93.

As regards residential colonies no change need be made as colonies cannot be compared with individual consumers. The Hon'ble High Court of Karnataka in the above referred decision has after following the decision of AP High Court reported in AIR 1985 AP 299 has held that the colonies of HT consumers form a class by themselves and hence can be treated differently.

As regards the contention for reduction of tariff based on Article 287 of the Constitution of India, it has to be observed that Article 287 only mandates reduction of tariff to the extent of Electricity Tax. In the case of the Railway, the tariff is exclusive of Tax and therefore no further reduction can be considered.

### **3.17 Sri.B.G.Rudrappa, Member, Advisory Committee, KERC**

The above objector has said that the present system of allocation of energy supplied from a particular generating station is technically incorrect and arbitrary. The objector has observed that this has led to unnecessary complications in working out the cost of energy purchased. The objector has furnished certain statistics and calculations and has said that there is no consistency in the rates assumed by the ESCOMS. The objector has also questioned the indiscriminate purchase of power on short term basis at high cost and the practice of the Government determining the percentage of total energy that a particular ESCOM is entitled to. With regard to Rate of Return, the objector has observed that the same has not been considered on the ground that the particular ESCOM has negative capital reserve.

#### **BESCOM's reply**

With regard to allocation of energy on short-term basis, BESCOM has replied that the energy requirements are submitted to PCKL, the nodal agency, which is coordinating the power procurement activity. Accordingly the details received from PCKL were furnished in the tariff

filing. On the question of Rate of Return, BESCO has said that considering the equity infusion of Rs.210 Crores during FY10 as per the audited accounts, the Commission has approved ROE of Rs.11.38 Crores, Rs.13.37 Crores and Rs.15.70 Crores for FY11, FY12 and FY13 respectively.

### **Commission's Views**

The above objector and several others have in their written objections and during public hearings questioned the allocation of power to different ESCOMs from various sources of generation made by the State Government. They have also expressed the view that by such allocation, the Government is transferring the burden of one ESCOM to another in order to keep the tariff levels uniform throughout the State.

The Tariff policy of 2006 clearly provides for achieving uniformity in the retail tariffs for different categories of consumers in a State by such assignments of sources of power by the State Governments to take care of different load profiles of the distribution companies. In the face of the prevailing regional imbalances in the State, the Commission is of the view that the allocation of different sources of energy among ESCOMs made by the State Government is in order.

### **3.18 Sri.S.Govindappa, former Member (Tech), KEB, Bangalore**

The above objector has said that thermal sources of energy are not being fully utilized by the state, which has resulted in purchase of energy at higher cost. The objector has said that distribution transformers are not maintained properly. The objector has also observed that a large number of distribution transformers are added at a huge cost to show zero failure rates. The objector has given certain suggestions on RAPDRP, APDRP, DSM etc.

**BESCOM's reply**

With regard to capital investment for works, BESCOM has mentioned that it will have a re-look on investing on distribution transformers. It has also said that the objectors' comments on DAS, RAPDRP, DSM etc., taken note of.

**Commission's Views**

The Commission has considered the views of the objector at the relevant place.

**3.19 Karnataka Small Scale Industries Association, Bangalore**

The above objectors have raised issues relating to maintainability of the tariff petition on grounds like delay in filing, non-adherence to the directives issued by the Commission, non-availability of 'cost to serve' details etc. They have asked the Commission to reject UI charges in power purchase cost. The objectors have said that BESCOM has purchased short-term power at 497 paise per unit in violation of the ceiling limit of Rs.4/- fixed by the Commission. On the question of TOD, the objector has said that each industry has its own problems relating to raw materials, manpower etc. Hence compulsory TOD will adversely affect the industries. They have asked to continue the present optional mode of TOD.

The objectors have sought information on various issues. They have said that the growth rate projected by BESCOM is not convincing. They have said that regulatory assets are not to be created. The objectors would like BESCOM to introduce prepaid meters.

**BESCOM'S reply**

Regarding delay in submitting tariff filing BESCOM has said that since the filing for second control period was under process it could not file the tariff application in time. Further, the Commission vide letter dated

25.4.2011 directed BESCO to file tariff application for FY12. Accordingly, the company filed the APR for FY11 and tariff filing for FY12 on 15.06.2011. On the necessity of tariff filing, BESCO has said that the energy input has registered a growth of 15.43% for the first 4 months of FY12. Hence tariff increase was essential. BESCO has furnished the information required by the objector.

### **Commission's Views**

The Commission has noted the request of the objector with regard to optional TOD and the same is considered in this tariff order. The objection on delay in filing the APR is already considered in the objections of FKCCI and rejected. The same applies to this objector's objection also. The objection with regard to growth rate projected by BESCO, has been considered by the Commission and an appropriate decision is taken in this Order.

### **3.20 M/s. HSBC Electronic Data Processing India Private Limited, M/s. JP Morgan Services India Pvt. Ltd and Tata Telecommunications Ltd, Bangalore**

The above objectors have raised issues relating to maintainability of tariff filing. They have said that curtailment of power supply to IP sets is against the universal supply obligation. They have further suggested that solar rebate to be extended to all LT2a consumers. They have said that the reconciliation of consumer security deposit has not been carried out. The objectors have said that BESCO has violated the Karnataka Transparency in Procurement Act.

The objectors have made further submissions that IP set consumption has been manipulated by BESCO. Regarding power purchase cost, the objectors have said that BESCO has purchased less power thereby creating an artificial gap to enable it to go in for short term purchases. They have further said that it is illegal to buy and sell under UI. Hence the sum of Rs.70 Crores is to be disallowed. The objectors have indicated that bad debts amounting to Rs.29.717 Crores is not



because of consumers as the BESCO is holding 3MMD. Hence this amount should not be allowed. Similarly the ROE in excess of the approved Rs.11.38 Crores should be disallowed.

### **BESCO's reply**

In its reply BESCO has said that the proposed revision of tariff is with the intention of bridging the revenue gap of Rs.1665.31 Crores. On the question of delay in filing the its ERC, BESCO has said that the Commission issued tariff order 2010 on 07.12.2010 and BESCO was supposed to file its APR for FY on 30.11.2010. Since the filing process was under consideration, this could not be done. Further, the Commission vide its letter dated 25.04.2011 directed BESCO to file tariff application for FY12. Accordingly BESCO filed its APR on 15.06.2011. It has furnished the details in support of the growth rate projected.

BESCO has furnished the rationale behind providing power supply to IP sets and regularization of the unauthorized IP sets. It has said that a detailed reply was furnished to the Commission on 30.6.2009 with regard to discrepancies in consumer security deposit. BESCO has replied that reports are being submitted on Reliability Index to the Commission and the matter relating to short term power purchase is under the purview of the Commission.

About the violation of KTPP Act, BESCO has furnished the details of the letter from Government of Karnataka. It has said that taking into account the growth rate achieved in the past two quarters, the growth rate has been projected. About the penalty for dishonour of cheques, BESCO has said that its staff will make two trips to the premises of the defaulted consumer to restore power. Considering the wage earned by the employee and service rendered by him the charges are realistic.

BESCO has said that the CERC under Section 178 of the EA 2003 makes regulations for procuring power under UI. According to these

regulations, the UI in a time block for a generating station or seller means, total actual generation minus its total schedule generation and for a beneficiary or buyer, it is the total actual drawl minus total scheduled drawl.

### **Commission's Views**

All the objections except one raised by these objectors which are earlier to the one raised by FKCCI and others already dealt. Therefore the same decision applies. Additional objection raised by this objector on an application of a particular tariff category. This being not an issue relating to tariff determination, objector has to raise the same separately with all material details before the appropriate Forum and seek redressal.

### **3.21 B.S.Raghavendra Rao, Bangalore**

The above objector has said that the Commission should first examine the reasons for the loss incurred by BESCO, despite increase in tariff every year. He has said that theft of power should be curtailed and equipments properly maintained. The objector has said that misuse of free power needs to be prevented. He has said that steps are to be taken to recover outstanding amount from government departments.

### **BESCO's reply**

In its reply BESCO has said that the details of vigilance activities are furnished in the tariff filing. It has said that 1466 criminal cases have been booked during FY11. The collection efficiency of BESCO is 97.71% and the details are furnished in the tariff filing.

### **Commission's Views**

The Commission has issued directives to ESCOMs to segregate Technical and commercial losses. Further, ESCOMs have to take up energy auditing at DTC level wherein they can detect losses due to

theft and pilferage. In case of outstanding amounts from Government department, ESCOMs in the same and shall collect all outstanding dues.

**3.22 Sri.M.N.Viyayakumar, IAS, OSD & E/O, Principal Secretary, DPAR, GoK.**

The above objector has said that the Advisory Committee of KERC appears to have not met after 2009 and the input was very essential to the citizens to file their objections. He has said that it is not clear as to how the various DSM measures have reduced the subsidy burden of the Government. He has also said that it is not clear as to how ESCOMS can claim less power purchase price for energy not procured while these do not hesitate to claim more than twice its cost for other purposes.

The objector has suggested that if the nature of consumption had been given for each category (less than 20 % of average, 20 % – 40 % etc), it would have revealed the subsidy borne by the poor for other categories. The objector has also sought details of consumption by BJ/KJ installations.

**BESCOM's reply**

In its reply BESCOM has said that as per tariff order 2010, the Commission determined tariff for IP set and BJ/KJ at Rs.1.41/unit and Rs.4.43/unit respectively. The monthly assessed consumption of IP set installations is done by metering DTCs feeding predominantly IP sets and details are furnished to the Commission in prescribed formats. Subsidy towards IP sets are claimed on the assessed consumption and for BJ/KJ the subsidy is claimed limiting the consumption to 18 units/installation/month.

Regarding DSM measures, BESCOM has furnished the various initiatives taken in this direction. A table depicting the cost coverage for each category through tariff is also furnished. BESCOM has also furnished

month wise consumption of BJ/KJ and domestic consumers and assessed consumption of IP sets for the past three years.

### **Commission's Views**

The Commission has prescribed certain templates and formats to enable the ESCOMS to furnish the information as required under the Electricity Act 2003, the Regulations issued by the Commission and other statutory requirements. However if the information provided by the ESCOMS is found to be insufficient to file objections, public are free to obtain the same from the ESCOMS. This has been intimated in the notification issued by the ESCOMS. Hence the objector may seek the required information from the ESCOMS.

Regarding analysis and other comparative studies to be done by the Commission, the objector's suggestion is noted.

### **3.23 President, Karnataka Textile Mills Association, Bangalore**

The above objectors have said that textile mills are cross subsidizing and paying more than the average cost of supply. The power cost is more than 18% of the total input cost and mills are not in a position to absorb, this extra cost. The objectors have said that power quality is poor and the industry is suffering of lot of power cuts. They have said that the power tariff in the neighbouring states is low and the textile mills viability is at stake. They have said that the textile industry is providing employment to the SC/ST, women and under-privileged classes.

The objectors have said that the proposal of BESCO to introduce compulsory TOD should be rejected. It should be optional. Further they have suggested that the TOD should be retained at plus 80 paise for the peak hours and the reduction in tariff to be increased to minus 125 paise for non-peak hours.

The objectors have reiterated the above in the rejoinder application as well.

### **BESCOM's reply**

BESCOM in its reply has stated that Power Company of Karnataka Limited (PCKL) is consolidating the energy requirement of all ESCOMs and plans for procurement of power. Accordingly, the details received from PCKL were furnished in the tariff filing.

Regarding Rate of Return on Equity BESCOM has replied that the Commission in Tariff Order 2010 has approved RoE of Rs.11.38 Crores, Rs.13.37 Crores and Rs.15.70 Crores for FY11, FY12 and FY13 respectively.

### **Commission's Views**

Commission has considered the views expressed by the objector while passing the order.

## **3.24 List of Objectors**

A List of objectors who have filed written comments / objections is appended as **Annexure – I** to this Order.

A list of objectors who have participated in the Public Hearing is appended as **Annexure – II** to this Order.