

BEFORE THE HONOURABLE  
ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION  
#11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

**PUBLIC NOTICE**

**Re : In the matter of determination of Cross Subsidy Surcharge for FY2005-06  
to FY2012-13 and for FY2015-16**

The erstwhile APERC for undivided Andhra Pradesh State has determined the Surcharge (Cross Subsidy Surcharge or CSS) and Additional Surcharge (AS) in its Orders passed in O.P. No.16 of 2005 dt. 21-09-2005 and O.P. No.13 of 2006 dt. 29-08-2006 for FY2005-06 and FY2006-07 respectively. The erstwhile APERC in its Order passed in O.P. No.5 of 2007 dt. 28-03-2007 has provisionally extended the applicability of the rates of CSS / AS already specified in its Order passed in O.P. No. 13 of 2006 dt. 29-08-2006 w.e.f 01-04-2007 onwards. In the determination of CSS for FY2005-06 and FY2006-07, the erstwhile APERC has followed the embedded cost method in which the ARR is allocated to different consumer classes as cost and per unit CS was calculated as the difference between per unit average revenue realization and embedded cost for different consumer categories.

2. Aggrieved with the method of determination of CSS by the erstwhile APERC, M/s. RVK Energy & others have challenged such determination for FY2005-06 and FY2006-07 before Hon'ble Appellate Tribunal for Electricity (APTEL). The APTEL in its order dt. 05-07-2007 passed in Appeal Nos. 169-172 of 2005 & 248-249 of 2006 allowed the appeals and directed the erstwhile APERC as follows:

*44. In the circumstances, therefore, we direct the APERC to compute the cross subsidy surcharge, which consumers are required to pay for use of open access in accordance with the Surcharge Formula given in para 8.5 of the Tariff Policy, for the year 2006-07 and for subsequent years.*

3. Further, the APTEL in its order dt. 05-07-2007 observed as follows:

*45. In future all the Regulatory Commissions while fixing wheeling charges, cross subsidy surcharge and additional surcharge, if any, shall have regard to the spirit of the Act as manifested by its Preamble. The charges shall be reasonable as would result in promoting competition. They shall be worked out in the light of the above observations made by us. This direction shall also apply to the APERC for computing the cross subsidy surcharge for the year 2005-06 as well.*

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4. The erstwhile APERC has carried the matter in appeal and filed Civil Appeal Nos. 4936-4941 of 2007 before the Hon'ble Supreme Court challenging the order of the APTEL. In its order passed on 05-05-2008, the Hon'ble Supreme Court stayed the order dt. 05-07-2007 of the ATE passed in appeal Nos. 169-172 of 2005, until further orders. Thereafter, the Hon'ble Supreme Court in its order dt. 04-12-2009, stated that the interim orders dt. 05-05-2008 shall remain operative till final disposal of the Civil Appeals. Ultimately, on 31-03-2016 the Hon'ble Supreme Court dismissed the CA Nos. 4936-4941 of 2007.

5. In the interregnum, the erstwhile APERC on 26-10-2012 finally determined CSS for FY2007-08 in O.P. No. 5 of 2007. On the same date i.e., on 26-10-2012 the erstwhile APERC also determined CSS for subsequent years as shown below:

O.P. No.	73 of 2012	74 of 2012	75 of 2012	76 of 2012	77 of 2012
Year	2008-09	2009-10	2010-11	2011-12	2012-13*

\* AS has been determined by the erstwhile APERC for only FY2012-13.

6. In all these Orders, the erstwhile APERC has specified that the determination of the CSS and AS are subject to final judgment of the Hon'ble Supreme Court in Civil Appeal Nos. 4936-4941 of 2007.

7. Further, the erstwhile APERC in its Order passed in O.P. No. 54 of 2013 dt. 13-08-2013, determined the CSS and AS for FY2013-14 as "Nil". For FY2014-15, tariff for retail sale of electricity, CSS and AS were not determined. Thus, for 2 years viz., FY2013-14 and FY2014-15, CSS and AS are not determined.

8. Consequent to bifurcation of the State, the APERC constituted in terms of the Andhra Pradesh Reorganisation Act, 2014, in its order passed in O.P. No.8 of 2015 dt.15-04-2015, has determined CSS and AS for FY2015-16 following the embedded cost method as was done by the erstwhile APERC based on Retail Supply Tariff Order issued for FY2015-16 and further stated that such determination of CSS and AS for FY2015-16 is subject to final judgment of Hon'ble Supreme Court in Civil Appeal Nos. 4936-4941 of 2007.

9. Several consumers have challenged the above mentioned order dt.15-04-2015 before the Hon'ble High Court of Judicature at Hyderabad, which granted interim stay of the demand to the extent of the difference between the proposal made by the distribution licensees and the tariff determined by APERC. However, on 27-04-2016, the Hon'ble High Court of Judicature at Hyderabad finally disposed all the writ petitions, set aside the order dt. 15-04-2015 of APERC passed in O.P. No. 8 of 2015 stating that Civil Appeals on the very same principle were dismissed by the Hon'ble Supreme Court on 31-03-2016 and remanded the matter to APERC for disposal in accordance with law.

10. In view of the above, APERC is required to determine CSS and AS afresh for FY2005-06 to FY2012-13 and for FY2015-16 as per the method specified in Tariff Policy in view of the direction of the Hon'ble APTEL as mentioned in paras 2 & 3 above. However, such determination afresh does not arise for FY2013-14 and FY2014-15, as CSS and AS are "Nil" for FY2013-14 and CSS and AS were not determined for FY2014-15 in the beginning itself.

11. TAKE NOTICE that APERC proposes to determine CSS and AS afresh following the Tariff Policy for financial years from FY2005-06 to FY2012-13 and FY2015-16 by issuing separate orders as mentioned below;

- i) CSS and AS for FY2005-06
- ii) CSS and AS for the period from FY2006-07 to FY2012-13
- iii) CSS and AS for FY2015-16

*In compliance with the direction of the Hon'ble APTEL and Order of remand of the matter by the Hon'ble High Court of Judicature at Hyderabad.*

12. ALSO TAKE NOTICE that APERC invites views / suggestions / objections of interested persons / stakeholders in respect of the above mentioned subject matters, which may be sent to the Commission Secretary / APERC on or before the date of public hearing on the subject matters, at the above mentioned address or through email [commn-secy@aperc.gov.in](mailto:commn-secy@aperc.gov.in).

13. TAKE FURTHER NOTICE that the matters relating to determination of CSS and AS for the above mentioned years, will be taken up for public hearing by the Commission on 25-06-2016 at 11.00 AM in its Court Hall at Hyderabad and any interested person / organization desirous of being heard in person, may appear before it on the said date of hearing.

Place: Hyderabad  
Date: 02-06-2016



COMMISSION SECRETARY<sub>1/c</sub>