

Panel on Environmental Affairs

Distribution of Cash Coupons for Compact Fluorescent Lamps Scheme

Background

At the meeting of the Panel on Environmental Affairs held on 2 November 2009, advice was sought on whether the proposed increase in the electricity tariff rates as a result of the proposed distribution of cash coupons under the compact fluorescent lamps (CFLs) scheme would constitute a breach of the Scheme of Control Agreements (SCAs) made by the Government and the two power companies. The advice given at the meeting is set out below as requested for members' reference.

Scheme of Control Agreements made by the Government and the two power companies

2. The SCAs set out the rights and obligations of the power companies and provide a framework for the Government to monitor the power companies' financial affairs and technical performance. Key features of the SCAs include the requirement for the power companies to supply electricity at the lowest cost and provision for periodic financial review and annual tariff review by the power companies.
3. The current SCAs were executed by the Government and the relevant power companies on 7 January 2008. Clause 3 of the respective SCAs contains the provisions for electricity tariff adjustments. Implementation of adjustments to the basic tariff rates and annual tariff review are governed by Schedule 3 to the respective SCAs, namely, "Procedures for development plan review, tariff review and auditing review". The grounds for adjustments of the basic tariff rates as set out in clause 3(2) of the respective SCAs are as follows -
 - (a) benefits to consumers derived from economies of scale and improvement of efficiency;
 - (b) repayment of loans by the power company concerned in accordance with financing requirements which are reviewed and agreed to by the Government; and
 - (c) changes in the relevant power company's *total operating costs*, including, inter alia, cost of labour, materials, supervision, depreciation, provision for asset decommissioning obligation, approved electricity purchase from other companies, promotion of energy efficiency and conservation, interest, foreign exchange differences and taxes but excluding changes in the cost of fuels.

4. Under Schedule 1 to the respective SCAs, "*total operating costs*" for any year means the aggregate of the relevant power company's electricity-related operating costs calculated in accordance with Schedule 2 in that year, and inter alia, includes *recurrent expenditure* incurred in promoting energy efficiency and conservation.

The proposed CFLs cash coupons scheme

5. It is noted that the Administration has not mentioned in the 2009-2010 Policy Address or in the discussion paper LC Paper No. CB(1)28/09-10(01) issued for the meeting of the Environmental Affairs Panel on 16 October 2009 that the power companies will be allowed to adjust the basic tariff rates under the proposed CFLs cash coupons scheme. The Administration was requested by the Environmental Affairs Panel through a letter issued by the Clerk to the Panel on 22 October 2009 to clarify whether there would be an increase in electricity tariff rates in return for distribution of cash coupons on CFLs, and if so, the legal basis for the increase. However, the relevant issues have not been addressed in the Administration's paper provided to the Panel for its meeting on 2 November 2009 (LC Paper No. CB(1)168/09-10(01)).

6. If the policy intent is to allow an upward adjustment of the basic electricity tariff rates in return for the distribution of cash coupons on CFLs, to determine whether the upward adjustment would constitute a breach of the SCAs, it is necessary to consider whether the proposed distribution of a \$100 cash coupon to each residential electricity account holder for the purchase of CFLs at registered retailers would fall within any of the grounds for tariff adjustments as provided in the SCAs. In the absence of any information provided by the Administration regarding the details of its implementation, the proposed CFLs cash coupons scheme seems to be a one-off measure and does not qualify as a "recurrent expenditure" incurred in promoting energy efficiency and conservation under the respective SCAs. Members may wish to ask the Administration to clarify the legal basis if it is intended that an upward adjustment in the electricity tariff rates would be a part of the implementation of the CFLs cash coupons scheme. The Legal Service Division would be pleased to assist members when further information becomes available.

Prepared by

Kitty CHENG
Assistant Legal Adviser
Legislative Council Secretariat
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