



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION  
HYDERABAD.**

5<sup>th</sup> Floor, Singareni Bhavan Lakdikapul Hyderabad 500004

I. A. No. 3 of 2017  
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I. A. No. 4 of 2017  
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I. A. No. 5 of 2017  
&  
I. A. No. 6 of 2017  
&  
I. A. No. 7 of 2017  
&  
I. A. No. 8 of 2017  
in  
O. P. No. 76 of 2015.

Dated: 02.01.2019

**Present**

Sri. Ismail Ali Khan, Chairman

*I. A. No. 3 of 2017 in O. P. No. 76 of 2015*

Between:

M/s Federation of Telangana & Andhra Pradesh  
Chambers of Commerce & Industry, # 11-6-841,  
Federation House, Red Hills, Hyderabad – 500 004.

.... Applicant.

AND

1. Southern Power Distribution Company of Telangana Ltd.  
Mint Compound, Secretariat Road,  
Hyderabad – 500 063.

.... Respondent / Original Petitioner No. 1.

2. Northern Power Distribution Company of Telangana Ltd.,  
H.No. 2-5-31/2, Corporate Office, Vidyut Bhavan, Nakkalgutta,  
Hanamkonda, Warangal – 506 001.

.... Respondent / Original Petitioner No. 2.

*I. A. No. 4 of 2017 in O. P. No. 76 of 2015*

Between:

Sri. Ashok Bukka, H. No. 6-213 / 1, Opp: Devi Garden, Toopran,  
Medak District – 502 334.

....Applicant.

AND

Southern Power Distribution Company of Telangana Ltd.  
Mint Compound, Secretariat Road,  
Hyderabad – 500 063.

.... Respondent / Original Petitioner No. 1.

*I. A. No. 5 of 2017 in O. P. No. 76 of 2015*

Between:

Sri. M. Krishna Reddy,  
M/s. Pamba Pure Drinking Water,  
H. No. 6-212/2, Opp: Devi Garden,  
Toopran, Medak District – 502 334.

.... Applicant.

AND

Southern Power Distribution Company of Telangana Ltd.  
Mint Compound, Secretariat Road,  
Hyderabad – 500 063.

.... Respondent / Original Petitioner No. 1.

*I. A. No. 6 of 2017 in O. P. No. 76 of 2015*

Between:

Sri. Bandi Laxminarayana S/o Venkanna,  
M/s. Saphagiri Springs, R/o Damargidda Road,  
Narayanpet Mandal, Mahabubnagar District.

.... Applicant.

AND

Southern Power Distribution Company of Telangana Ltd.  
Mint Compound, Secretariat Road,  
Hyderabad – 500 063.

.... Respondent / Original Petitioner No. 1.

*I. A. No. 7 of 2017 in O. P. No. 76 of 2015*

Between:

Sri. M. Jaipal Reddy,  
Aqua Priya Darshini Industries,  
Maheswari Theatre, Yenugonda,  
Mahabubnagar District.

... Applicant.

AND

Southern Power Distribution Company of Telangana Ltd.  
Mint Compound, Secretariat Road,  
Hyderabad – 500 063.

.... Respondent / Original Petitioner No. 1.

*I. A. No. 8 of 2017 in O. P. No. 76 of 2015*

Between:

Sri. Mohd. Mukram Ali,  
Aqua Super (RO Water Plant),  
Madeena Mazeed, Town – I,  
Mahabubnagar.

... Applicant.

AND

Southern Power Distribution Company of Telangana Ltd.  
Mint Compound, Secretariat Road,  
Hyderabad – 500 063.

.... Respondent / Original Petitioner No. 1.

These applications came up for hearing on 17.06.2017, 13.11.2017, 16.11.2017, 02.05.2018 and 02.06.2018.

Applicant	Respondent(s)
I. A. No. 3 / 2017: Smt. T. Sujatha, Deputy Director alongwith Sri. Anil Reddy Vennam, representative of the Federation attended on 17.06.2017 and Smt. T. Sujatha, Joint Director of the applicant attended on 13.11.2017, 16.11.2017, 02.05.2018 and 02.6.2018	I. A. Nos. 3 / 2017 to I. A. No. 8 / 2017: Sri. Y. Rama Rao, Advocate for the respondents alongwith Sri. B. Vijaya Bhaskar, Advocate attended on 17.06.2017, Sri. Y. Rama Rao, Advocate for the respondents alongwith Sri. Sai Vihari and Ms. Pravalika, Advocate attended on 13.11.2017, Sri. Y. Rama Rao, Advocate for the respondents alongwith Ms. Pravalika, Advocate attended on 16.11.2017 and 02.06.2018 and Sri. Y. Rama Rao, Advocate for the respondents alongwith Sri. M. V. R. Prasad, Advocate attended on 17.06.2017.
I. A. No. 4 / 2017 Sri. Bukka Ashok – petitioner attended on 17.06.2017, 13.11.2017, 16.11.2017, 02.05.2018 and 02.6.2018	
I. A. No. 5 / 2017 Sri. M. Krishna Reddy – petitioner attended 17.06.2017, 13.11.2017, 16.11.2017 and 02.6.2018 and no representation on 02.05.2018	
I. A. No. 6 / 2017 Sri. Kotla Rajavardan Reddy, Advocate	

<p>attended on 17.06.2017, Sri. B. Laxmikantha Reddy – petitioner attended on 02.05.2018 and 02.06.2018 and no representation on 13.11.2017 and 16.11.2017.</p>	
<p>I. A. No. 7 / 2017</p> <p>Sri. Kotla Rajavardan Reddy, Advocate attended on 17.06.2017, Sri. M. Jaipal Reddy – petitioner attended on 02.06.2018 and no representation on 13.11.2017, 16.11.2017 and 02.05.2018.</p>	
<p>I. A. No. 8 / 2017</p> <p>Sri. Md. Mukram Ali – petitioner attended on 17.06.2017 and no representation on 13.11.2017, 16.11.2017, 02.05.2018 and 02.06.2018.</p>	

These applications having stood over for consideration to this day, the Commission passed the following:

### **COMMON ORDER**

At the outset it is felt appropriate that the issues involved and the relief sought in all these interlocutory applications are common and germane to each other, therefore, the same are being disposed of by this common order. The specific facts to each of the cases have been extracted below by avoiding the commonly repeated facts as stated by the 1<sup>st</sup> applicant.

I.A. No. 3 of 2017

M/s. Federation of Telangana and Andhra Pradesh Chambers of Commerce and Industry (FTAPCCI) (applicant) has filed an interlocutory application under sec 94 (2) of the Electricity Act, 2003 (Act, 2003) seeking modification of the tariff order for the year 2015 – 2016 in respect of classification of RO / water processing plants regarding categorization of the same under LT – III Category instead of LT – II Category.

2. The applicant stated the applicant is the representative of the Telangana and Andhra Pradesh Commerce and Industry. It is stated that the respondents are companies incorporated under the provisions of Companies Act, 1956 and are

wholly owned and controlled by Government of Telangana (GoTS). The respondent is engaged in the business of distribution of electricity within their area of operation.

3. The applicant stated that the present miscellaneous application is being filed for clarification of the observation made by the Commission while discussing with regard to R.O / Water Processing Plants that the DISCOMs proposal to change the category of the service connection from LT – III (A) industrial to LT – II Non Domestic / Commercial. The facts leading to the filing of the present application is as follows.

4. The applicant stated that RO and water purifying plants located in Telangana state were given power supply connection under category – III industry and majority of the units are operating since 2005 or earlier. The units were inspected in March 2016 and were back billed from August 2012 to March, 2016, alleging that the unit's service connection will come under LT category – II but not LT category – III.

5. The applicant stated that being aggrieved by notices it filed a complaint dated 05.11.2014 before the CGRF, Hyderabad Circle. The respondent submitted before the CGRF that the water plants were considered under the LT – III category till June 2012, but CGM, Commercial of TSSPDCL (erstwhile APCPDCL) issued a memo No. CGM / ComI / SE / ADE / T / D / No. 726 / 12 dated 07.08.2012 reclassifying water purifying or packaged drinking water services already under LT – III into LT – II non – domestic category. It is relevant to mention here that unit holders were not intimated with regard to issuance of such memo passed by the CGM. They have not been issued any notice with regard to change of category of RO / Water Purifying Plants from LT – III into LT – II non-domestic category.

6. The applicant stated that the CGRF, TSSPDCL passed orders holding that the respondents are directed to act as per rules in vogue under intimation to the forum and disposed of the complaint. Aggrieved by the same some of the applicants before the CGRF have filed appeals before the Vidyuth Ombudsman for the state of Telangana. It is stated that Section 56 (2) of Act, 2003 states that notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the

licensee shall not cut off the supply of the electricity. It also stated before the Ombudsmen that in all the cases of such units that were given notices after April 2015, it is stated that DISCOM failed to give them 15 days notice to the consumers before implementing the rescheduling of the tariff as per changed category. It is further stated that thus, sending notices for payment of short billings for more than 4 years shows that the department is neither following its own GTCS given by Commission, nor working under Act, 2003 which is mandatory.

7. The applicant stated that the Vidyut Ombudsman vide his order dated 22.11.2016 in Appeal No. 55 of 2016 held that the water processing plants are correctly categorized as LT category – II (commercial) consumer, the back billing is in compliance to the provisions of GTCS and appellants shall pay the back billing amount so arrived at in 12 equal instalments starting from the month of January' 2017.

8. The applicant stated that it is pertinent to mention here that it for the 1<sup>st</sup> time came to know about the observation made by the Commission in tariff order 2015-16 with regard to change of category of the R.O / Water Processing Plants from LT – III (A) Industry to category LT – II Non domestic / commercial. The observation at page 110 and 111 is as under:

“4.4.26 (A) Objections regarding water purifying plant to be considered as industry & not as a commercial activity. Palamoor R.O. Water Plants Association stated that, water purifying plant is an industry of processing the water and the same shall not come under the commercial activity. Hence the billing retrospectively for the past period against the water plant service connections is not proper and is not liable to pay the same. They also requested the commission to direct the ADE / OP / Mahaboob Nagar Town TSSPDCL not to change the service connections of water purifying plants from category III to category II.

(B) Licensee's Response: As per the tariff order, industrial purpose shall mean, supply for purpose of manufacturing, processing and / or preserving goods for sale, but shall not include shops, business houses, offices, public buildings, hospitals, hotels, hostels, choultries, restaurants, clubs, theaters, cinemas, bus stations, railway stations and other similar premises,

notwithstanding any manufacturing, processing or preserving goods for sale. As per this definition R.O. plant does not come under industry as there is no manufacturing activity and the water is being sold at higher prices and thus they are being categorized under non-domestic category. However, the categorization of any activity is under the purview of the Hon'ble Commission. (c) Commission's view: The Commission agrees with the views of discoms on this issue."

9. The applicant stated that RO water processing plants service connection were released under LT – III category and has been billed accordingly till 2016. At no point of time it was informed to the unit holders that the type of service connection has been changed. It is relevant to mention here that CGRF – 1, APCPDCL held in order dated 16.04.2014 in C. G. No. 20 / 2014 / Kurnool Circle that the clarification issued by the CGM / Commercial is not exhaustive and it seems the clarification is applicable for the services to be released in future for water purifying / treatment plants, but not for the services already released and running. It also held that the raw water will be processed in different stages to come final product of purified drinking water and therefore purifying plants can be treated as processing unit which comes under category – III. CGRF also directed the respondent therein to continue the complainant's service connection under LT – III category until clarification is issued by the APERC. It is stated that there is no element of manufacture in the RO / water purifying plant to bring the same under LT – II category and will come only under LT – III category as the same is a processing unit. It is pertinent to mention here that in the tariff order for the year 2016 – 17, R.O / water purifying plants were categorized under LT – III category, therefore the case of the R.O / water purifying plants requires consideration by the Commission to meet the ends of justice.

10. The applicant stated that even though there is no finding on the said issue by the Commission and the same was not mentioned in the schedule of the tariff for the FY 2015-16, respondents are erroneously back billing the petitioner's R.O / Water processing units depending upon the memo issued by the CGM and the observation made by the Commission.

11. The applicant stated that meanwhile it was informed by the independent member of CGRF – 1, TSSPDCL that a joint meeting of CGRFs was held on

28.10.2016 at TSERC and in the said meeting a discussion was held on the issue of back billing of arrears with regard to RO and water purifying plants. In the said meeting the Commission pointed that the back billing in respect of RO and water purifying plants cannot be done unilaterally based on the letter issued by the CGM commercial as the same lacks any legal teeth and therefore cognizance of which cannot be taken. It also came to know that the Commission expressed the view that the aggrieved consumers (RO & water purifying plants) may move appropriate petition before the Commission for appropriate relief if so advised. Hence, applicant is filing the present application seeking clarification of the observation made by the Commission with regard to R.O and water purifying plants at page 110 and 111 of the tariff order dated 27.03.2015 for the year 2015-16.

12. The applicant stated it also likes to bring to on record that there are more than 200 micro level RO / water processing plants in the state of Telangana, with an investment of about Rs.2.5 lakh that are operating at very marginal profits. The back billing move by the DISCOMs put huge financial burden on the small units, threatening their livelihood and employment to large number of people who work as delivery boys and others. Not only the economic impact, the units are doing an indirect service to the society by supplying clean drinking water. For instance, people are suffering from ailments due to fluoride problem in Nalgonda district and they are protected through the supply of fluoride treatment plants. Keeping in view the social cause, request the Commission not to categorize the RO / water treatment plants under category – II. Most of the water processing plants are located in gram panchayats and are operating under community service schemes like supply of safe drinking water at Rs. 2/- per liter at bus station and railway stations.

13. The applicant has sought the following prayer in the application.

a) Clarify the observation made by this Hon'ble Commission with regard to R.O and Water Purifying Plants at page 110 and 111 of the tariff order dated 27.03.2015 for the year 2015-16.

b) Declare the action of the respondent in treating the service connection of the petitioner under LT – II instead of LT – III (A) and back billing the petitioner's service connection basing on the Memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12, dated 07.08.2012 issued by CGM, Commercial of

TSSPDCL (erstwhile APCPDCL) and observation made by this Hon'ble Commission with regard to R. O. & Water Purifying Plants at page 110 and 111 of the tariff order dated 07.08.2012 for the year 2015-16 and consequently set aside provisional assessment dated 10.02.2016 and notice dated 17.12.2016 issued by the respondent.

I.A. No. 4 of 2017

14. Sri. Ashok Bukka (applicant) has filed an interlocutory application under section 94 (2) of the Act, 2003, seeking modification of the tariff order for the year 2015 – 2016 in respect of classification of RO / water processing plants regarding categorization of the same under LT – III Category instead of LT – II Category.

15. The applicant stated that he is the owner of a RO water processing plant by name Narmada Drinking water, established in 2005. He is engaged in supplying processed drinking water to the people in the area of Toopran.

16. The applicant stated that it has SC No. 1212603775 under category – III released in 2005. Some of the units were inspected in March 2016 and were back billed from August 2012 to March 2016. To the utter surprise of the applicant respondent issued provisional assessment order dated 22.04.2016 for Rs. 32,359.00 alleging that the applicant service connection will come under LT category – II but not LT category – III and back billed the service connection of the petitioner for the period from 15.08.2012 to 22.03.2016.

17. The applicant stated that the Vidyut Ombudsman vide its order dated 22.11.2016 in Appeal No. 54 of 2016 held that the unit is correctly categorized as LT Category – II (Commercial) consumer, the back billing is in compliance to the provisions of GTCS and appellant shall pay the back billing amount so arrived at in 12 equal instalments starting from the month of Jan' 2017. The applicant has reiterated the submissions made by applicant in I. A. No. 3 of 2017.

18. The applicant has sought the following prayer in the application.

- a) Clarify the observation made by this Hon'ble Commission with regard to R.O & Water Purifying Plants at page 110 and 111 of the tariff order dated 27.03.2015 for the year 2015-16

- b) Declare the action of the respondent in treating the service connection of the petitioner under LT – II instead of LT – III (A) and back billing the petitioner's service connection basing on the Memo No. CGM / ComI / SE / ADE / T / D / No. 726 / 12, dated 07.08.2012 issued by CGM, Commercial of TSSPDCL (erstwhile APCPDCL) and observation made by this Hon'ble Commission with regard to R. O. & Water Purifying Plants at page 110 and 111 of the tariff order dated 27.03.2015 for the year 2015-16 and consequently set aside provisional assessment dated 22.03.2016 and notice dated 22.04.2016 issued by the respondent.

I. A. No. 5 of 2017

19. Sri. M. Krishna Reddy (applicant) has filed an interlocutory application under sec 94 (2) of the Act, 2003, seeking modification of the tariff order for the year 2015 – 2016 in respect of classification of RO / water processing plants regarding categorization of the same under LT – III Category instead of LT – II Category.

20. The applicant stated that he is the owner of a RO water processing plant by name M/s. Pamba Pure Drinking Water, established in 2005. He is engaged in supplying processed drinking water to the people in the area of Toopran.

21. The applicant stated that M/s. Pamba Pure Drinking Water, established at Tooparan, Medak District. It has SC No. 1212603818 under category – III released on 16.12. 2005. Some of the units were inspected in March 2016 and were back billed from August 2012 to March 2016. To the utter surprise of the applicant, respondent issued provisional assessment order dated 31.03.2016 for Rs.1,10,949 alleging that the applicant service connection will come under LT category – II but not LT category – III and back billed the service connection of the petitioner for the period from 15.08.2012 to March 2016.

22. The applicant stated that the Vidyut Ombudsman vide its order dated 22.11.2016 in Appeal No. 55 of 2016 held that the unit is correctly categorized as LT Category – II (Commercial) consumer, the back billing is in compliance to the provisions of GTCS and appellant shall pay the back billing amount so arrived at in 12 equal instalments starting from the month of Jan' 2017. The applicant has reiterated the submissions made by applicant in I. A. No. 3 of 2017.

23. The applicant has sought following prayer in the application.
- a) Clarify the observation made by this Hon'ble Commission with regard to R.O & Water Purifying Plants at page 110 and 111 of the tariff order dated 27.03.2015 for the year 2015-16
  - b) Declare the action of the respondent in treating the service connection of the petitioner under LT – II instead of LT – III (A) and back billing the petitioner's service connection basing on the Memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12, dated 07.08.2012 issued by CGM, Commercial of TSSPDCL (erstwhile APCPDCL) and observation made by this Hon'ble Commission with regard to R. O. & Water Purifying Plants at page 110 and 111 of the tariff order dated 27.03.2015 for the year 2015-16 and consequently set aside provisional assessment dated 11.03.2016 and notice dated 31.03.2016 issued by the respondent.

I. A. No. 6 of 2017

24. Sri. Bandi Laxmikanth Reddy (applicant) has filed an interlocutory application under sec 94 (2) of the Act, 2003, seeking modification of the tariff order for the year 2015 – 2016 in respect of classification of RO / water processing plants regarding categorization of the same under LT – III Category instead of LT – II Category.

25. The applicant stated that he is the owner of a RO water processing plant by name M/s. Saphagiri Springs Pure Drinking Water, established in 2005. He is engaged in supplying processed drinking water to the people in the area of Narayanpet town.

26. The applicant stated that M/s. Saphagiri Springs Pure Drinking Water, established in the year 2008 at Damargidda Road, Narayanpet Mandal, Mahaboobnagar District. It has SC No. 0186907759 under category – III released in the year 2008. Some of the units were inspected in 30.5.2015 and was back billed from March 2013 to May 2015. To the utter surprise of the applicant, respondent issued provisional assessment order dated 24.6.2015 for Rs.1,51,077 alleging that the applicant's service connection will come under LT category – II but not LT category – III and back billed the service connection of the applicant for the period from March 2013 to May 2015. It approached Hon'ble High Court for redressal. The Hon'ble High Court was pleased to pass an order in Writ Petition No. 16872 of 2016

dated 26.05.2016 directing the applicant to pay the electricity consumption charges under category III – A till the disposal of the case bearing No. DPE / MBNG / 2079 / 15. But, the respondent / petitioner No. 1 is demanding to pay the electricity consumption charges which was back billed which is against law as well as against the orders of the Hon'ble High Court in Writ Petition No. 16872 of 2016 dated 26.05.2016.

27. The applicant stated that the respondent submitted before the CGRF that the water plants were considered under the LT – III category till June 2012, but CGM, Commercial of TSSLPDCL (erstwhile APCPDCL) issued a memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12 dated 07.08.2012 reclassifying water purifying or packaged drinking water services already under LT – III into LT – II non – domestic category. It is relevant to mention here that applicant was not intimated with regard to issuance of such memo passed by the CGM. Applicant has not been issued any notice with regard to change of category of RO Water Purifying Plants from LT – III into LT – II non-domestic category.

28. The applicant stated that on 10.02. 2016, it was levied with notice vide case No. DPE / MBNG / 2079 / 15 by office of the Divisional Engineer, Electl. Operation, Mahabubnagar vide order No. DEE / OP / MBNR / TECH / D.No. 1390, dated 10.02.2016 received by the applicant on 30.06.2016. The amendment order for back billing for recovery of electricity charges from 28.03.2013 to 30.05.2015 for against service No. 0186907759, is served stating that the consumer is liable to pay a sum of Rs.1,51,077/- + 100/-. The applicant has reiterated the submissions made by applicant in I. A. No. 3 of 2017.

29. The applicant has sought the following prayer in the application.

- a) Clarify the observation made by this Hon'ble Commission with regard to R.O & Water Purifying Plants at page 110 an 111 of the tariff order dated 27.03.2015 for the year 2015-16
- b) Declare the action of the respondent in treating the service connection of the petitioner under LT – II instead of LT – III (A) and back billing the petitioner's service connection basing on the Memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12, dated 07.08.2012 issued by CGM, Commercial of TSSPDCL (erstwhile APCPDCL) and observation made by this Hon'ble

Commission with regard to R. O. & Water Purifying Plants at page 110 and 111 of the tariff order dated 17.03.2015 for the year 2015-16 and consequently set aside provisional assessment dated 10.02.2016 and notice dated 24.06.2016 issued by the respondent.”

I. A. No. 7 of 2017

30. Sri. M. Jaipal Reddy (applicant) has filed an interlocutory application under sec 94 (2) of the Act, 2003, seeking modification of the tariff order for the year 2015 – 2016 in respect of classification of RO / water processing plants regarding categorization of the same under LT – III Category instead of LT – II Category.

31. The applicant stated that he is the owner of a RO water processing plant by name M/s Aqua Priya Darshini Industries, established in 2010. He is engaged in supplying processed drinking water to the people in the area of Yenugonda.

32. The applicant stated that M/s. Aqua Priya Darshini Industries, established in the year 2010 at Yenugonda, Mahaboobnagar District. It has SC No. 0175360023 under category – III released on July, 2010 the units were inspected in 09.06.2014 and was back billed from 07.08.2012 to 09.06.2014. To the utter surprise of the applicant respondent issued provisional assessment order dated 08.07.2014 for Rs.1,04,525 alleging that the applicant's service connection will come under LT category – II but not LT category – III and back billed the service connection of the applicant for the period from 07.08.2012 to 09.06.2014.

33. The applicant stated that he filed complaint dated 05.11.2014 before the CGRF, Hyderabad Circle. Respondent submitted before the CGRF that the water plants were considered under the LT – III category till June 2012, but CGM, Commercial of TSSPDCL (erstwhile APCPDCL) issued a memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12 dated 07.08.2012 reclassifying water purifying or packaged drinking water services already under LT – III into LT – II non – domestic category. It is relevant to mention here that petitioner was not intimated with regard to issuance of such memo passed by the CGM. He has not been issued any notice with regard to change of category of R/O Water Purifying Plants from LT – III into LT – II non-domestic category.

34. The applicant stated that on 10.02.2016, he was issued notice in case No. DPE / MBNR / 5001 / 9452 / 14 from the office of the Divisional Engineer, Elect. Operation, Mahabubnagar vide letter No. DEE / OP / MBNR / TECH / D. No. 1539, actually delivered to him on 22.12.2016. The notice for back billing is for recovery of electricity charges from 07.08.2012 to 09.06.2014 in respect of service No. 0175360023, is proved and that the consumer is liable to pay a sum of Rs. 1,04,625/- + 100/-. The applicant has reiterated the submissions made by applicant in I. A. No. 3 of 2017.

35. The applicant has sought the following prayer in the application.

- a) Clarify the observation made by this Hon'ble Commission with regard to R.O & Water Purifying Plants at page 110 an 111 of the tariff order dated 27.03.2015 for the year 2015-16
- b) Declare the action of the respondent in treating the service connection of the petitioner under LT – II instead of LT – III (A) and back billing the petitioner's service connection basing on the Memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12, dated 07.08.2012 issued by CGM, Commercial of TSSPDCL (erstwhile APCPDCL) and observation made by this Hon'ble Commission with regard to R. O. & Water Purifying Plants at page 110 an 111 of the tariff order dated 07.08.2012 for the year 2015-16 and consequently set aside provisional assessment dated 10.02.2016 and notice dated 17.12.2016 issued by the respondent.
- c) The excess amount incurred during the period in which the service was billed under category – II, may please be refunded / adjusted in future bills.

I. A. No. 8 of 2017

36. Sri. Mohd Makram Ali (applicant) has filed an interlocutory application under sec 94 (2) of the Act, 2003, seeking modification of the tariff order for the year 2015 – 2016 in respect of classification of RO / water processing plants regarding categorization of the same under LT – III Category instead of LT – II Category.

37. The applicant stated that he is the owner of a RO water processing plant by name Aqua Super, established in 2010. He is engaged in supplying processed

drinking water to the people in the area of Madeena Masjid in Mahabubnagar District.

38. The applicant stated that Aqua Super is established in 2010 at Madeena Masjid, Mahabubnagar District. The applicant has SC No. 0175142974 under category – III released on July, 2010 the units was inspected in 09.06.2014 and was back billed from 09.08.2012 to 29.05.2014. To the utter surprise of the applicant the respondent issued provisional assessment order dated 09.07.2014 for Rs. 47,884/- alleging that his service connection will come under LT category – II but not LT category – III and back billed the service connection of the applicant for the period from 07.08.2012 to 09.06.2014.

39. The applicant stated that the service was under the LT – III category till June 2012, but CGM, Commercial of TSSPDCL (erstwhile APCPDCL) issued a memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12 dated 07.08.2012 reclassifying water purifying or packaged drinking water services already under LT – III into LT – II non – domestic category. It is relevant to mention here that petitioner was not intimated with regard to issuance of such memo passed by the CGM. They have not been issued any notice with regard to change of category of RO Water Purifying Plants from LT – III into LT – II non-domestic category.

40. The applicant stated that the assessment order for back billing for recovery of electricity charge from 09.08.2012 to 29.06.2014 against Service No. 0175142974, is proved stating that the consumer is liable to pay a sum of Rs. 47884.00 + Rs. 100/-. The applicant has reiterated the submissions made by applicant in I. A. No. 3 of 2017.

41. The applicant has sought the following prayer in the application.

- a) Clarify the observation made by this Hon'ble Commission with regard to R.O & Water purifying plants at page 110 and 111 of the tariff order 2015 – 16 dated 27.03.2015.
- b) Declare the action of the respondent in treating the service connection of the petitioner under LT – II instead of LT – III (A) and back billing the petitioner's service connection basing on the memo No. CGM / Coml / SE / ADE / T / D / No. 726 / 12 dated 07.08.2012 issued by CGM, Commercial

of TSSPDCL (erstwhile APCPDCL) and observation made by this Hon'ble Commission with regard to R.O. & Water Purifying plants at page 110 and 111 of the tariff order 2015-16 dated 27.03.2015 and consequently set aside provisional assessment dated 9<sup>th</sup> June, 2014 and notice dated 10.02.2016 issued by the respondent and

- c) The excess amount incurred during the period in which the service is being billed under cat. II, (even after the revision of tariff) may please be refunded / adjusted in future bills.

42. I have heard the applicant federation and some other applicants also. I have also perused the material available on record. The matter was heard on several days and therefore the developments that took place from time during hearing need to be factored in this case therefore the record of proceedings dated 17.06.2017, 13.11.2017, 16.11.2017, 02.05.2018 and 02.06.2018 are as placed in the order in arriving the finding in the matter.

*17.06.2017*

"The representative of the petitioner stated that the issue raised in this petition is relating to amend of the tariff order for the year 2015-16 in respect of the categorization of the R.O. water plants. She was at pains to explain under what provision the present petition is filed. On the question of the Commission regarding time period for filing review petition, she stated that it is 45 days from the date of the order. Then the Commission observed even if it is 75 days, the same has expired. The Commission sought to know whether it is review petition or amendment petition. The representative replied that it is filed for amendment of the tariff order. Then the Commission again sought to know under which provision the present petition is being filed, to which no specific reply came from the representative.

The Commission sought to know from the representative of the petitioner as to the basis on which the present petition is moved before the Commission and should it entertain the same in the absence of any public declaration made by it of such basis. In reply, the representative stated that the Commission allowed filing of the present petition by its observations in the review meeting with the Consumer Grievance Redressal Forums and Ombudsman. The Commission pointed out and sought to know whether the

said meeting was made known to the public or is it an internal discussion. The representative confirms that the said meeting was an internal discussion. If that be so, the Commission sought to know as to whether it will constitute a cause to file any petition, which resulted in a negative reply from the representative.

On the other hand the counsel for the respondents, while seeking time to file counter-affidavit, stated that the petition and the similar petitions listed today are not maintainable and that they should be rejected. It is his submission that the issue relates to the tariff order for 2015-16 and the said order has worked out itself. He also stated that the present petition cannot be entertained for review, rectification or modification of an order which has already worked out itself. He had no answer to the query from the Commission that the action to back bill such consumers after passing of the tariff order for the year 2016-17 wherein the RO plants have been classified under the different category than that to which such plants were categorized earlier. However, he stated that as the respondents are required to file counter-affidavit, the Commission may take a call on the maintainability of the petition after hearing both sides.

The Commission, considering the request of the counsel for the respondents, has adjourned the matter by making it clear that it would like to hear the issue of maintainability as well as merits of the case at one go after filing counter-affidavit of the respondents. Accordingly the matter is adjourned without any date.”

13.11.2017

“The representative of the petitioner association stated detailed submissions on the issue involved in the petition. She pointed out that reclassification of the water plant running units was done without notice and back billing amount has been levied. The back billing was done for four years at a stretch in certain cases based on the proceedings issued by the officers of the licensee for their internal action. In fact, the petitioner association, who has members of these units were provided with power supply under the industrial category when they were availing supply, but through inspection and notice of payment, change of category has been inflicted on the consumers. This resulted in change of category to II from III. Neither the service connections of

the R.O. water plants was under the category II nor released as such, but they are also not in category II after tariff order of 2016-17. The only year where they have been treated under the category II is the year 2015-16. Even while changing the category, the licensee chose not to follow the procedure as set out in the terms and condition of the power supply.

At this stage, the Commission has pointed out that the consumers are required to follow and should not violate section 126 of the Act, 2003. In respect of illegal action of the licensee of not issuing notice or billing directly under the different category than that which has been availed by the consumers, the consumers have ample remedies with the licensee and the forum provided by the licensee. The consumers cannot invoke section 56 (2) of the Act, 2003 as there is no restriction for back billing under section 126 of the Act, 2003 as it can go upto any period provided there is clear proof of the same.

The representative stated that the present petition is intended to seek modification of the tariff order in respect of FY 2015-16 for categorizing R.O. plants under category III and nothing more. There have been large number of cases where action of the licensee undertaking change of the category or issuing bills directly in the new category is questionable. Moreover, the CGRF and Ombudsman, whom the Commission is expecting consumer to approach, have passed different orders in different cases at different times creating lot of ambiguity on the issue.

Noticing that the issue raised by the association needs action by the licensee, the Commission has directed the standing counsel to ascertain from the licensee and report by the next date of hearing as to whether it is prepared to designate an officer at the highest level to mitigate the grievance of the water plants instead of pushing everybody to approach the Commission or any other forum for obtaining necessary orders. Accordingly, the matter is adjourned.”

*16.11.2017*

“The counsel for the respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II,

has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer."

*02.05.2018*

"The counsel for the respondents stated that the directions given by the Commission earlier have been complied with. A nodal officer has been designated to look into the issues of the R.O. plants. The Chief General Manager (Comml.) who was authorized on the issue has submitted a report to the Commission. It is the statement of the officer that only three consumers have approached the nodal officer and the said cases have been verified and found to be in order. Though the complaint is relating to several consumers, nobody else approached the nodal officer. Moreover the action of the concerned officers is in accordance with the terms and conditions of supply. No summary could be deduced from the report.

On the other hand, the officer representing the federation emphatically pointed out that the issue is not merely of back billing charges as conveyed by the counsel for the respondents, but also involves change of category of service connections from LT III to LT II. This is done all of a sudden by way of inspection without notice and that too based on some internal circular issued by the DISCOM to its officers. It is her case that the Commission clarified the position with regard to the category only in the tariff order for FY 2016-17 and 2017-18, whereas the issue is relating to the year 2015-16 and preceding years, where actually the service was released to individual R.O. plants in LT III only.

At this stage, the Commission sought to know what is the impact of changing the category and the amount involved in difference to both the categories. The representative of the federation sought time to place on record all the details and also the likely out flow of finances of the R.O. plants resulting in likely closure of them. Based on the submissions, the respondents are also to state

their version on the issue by giving necessary details as well as the financial implications for the licensee including the waiver of interest, if any.

The federation shall file its report by 19.05.2018 and the DISCOMs shall report their version within a week thereafter. Both the sides are required to exchange their respective reports while filing with the Commission.”

*02.06.2018*

“The counsel for the respondents reported that as per the directions of the Commission, none of the consumers or the federation itself have approached the Nodal Officer for resolving the issue raised in the matter. The representative of the federation expressed her apologies as to the understanding of the directions of the Commission on the earlier occasion. However, the federation has filed its submissions directly before the Commission instead of discussing the matter with the Nodal Officer. She also expressed the view that even after initiation of the proceedings, several notices are being sent by the DISCOM to the affected consumers. This position is not correct on the part of the DISCOM.

The Commission expressed its displeasure about not pursuing the matter with the Nodal Officer as well as issuance of notices by the licensee post initiation of proceedings before the Commission. It was made clear as discussed in the earlier hearing, the parties should arrive at amicable figures of payment towards dues from 2012 to 2016 as well as interest portion that can be waived off up to the year 2016.

The parties shall ensure compliance of the observations of the Commission and file detailed statement about the amount arrived at for settlement as well as interest rate by 30.06.2018. In the absence of the same, the Commission will proceed to decide the amounts duly quantifying the dues. Accordingly, the matter is reserved for orders.

43. Pursuant to the directions of the Commission the TSSPDCL has filed a report vide letter dated 03.08.2018 and its contents are extracted below.

“In this regard, it is to submit that as per the directions of the Hon'ble TSERC, discussions were held on dated 02.06.2018 with the applicants in the presence of FTAPCCI for arriving at amicable settlement. The following is

concluded during deliberations as is mutually agreeable, against each point raised by FTAPCCI in their letter dated 28.05.2018.

Sl.No.	FTAPCCI	TSSPDCL Proposal / Acceptance
i)	Reduce the difference amount payable by the RO / Water processing plants due to category change between the period August, 2012 to June, 2016 by 75% (as the tariff difference is very high)	FTAPCCI proposal for reduction of back billing amount by 75% is not acceptable. However, as per directions of the TSERC to arrive at amicable figures of payment and as a special case, TSSPDCL proposes to limit the assessed period of back billing cases of RO / Water processing plants of six (6) applicants, those who were approached the Nodal Officer / TSSPDCL, to a period of twelve (12) months immediately preceding the date of inspection, subject to conditions: i) TSERC confirms the same and accordingly passes orders in O. P. No. 76 of 2015. ii) An undertaking shall be given by the applicant that they shall withdraw cases, if any, filed before Hon'ble High Court. (Worked out calculation sheet of approximate revised assessed amounts by limiting the assessed period to twelve (12) months is enclosed as Annexure)
ii)	To waive off any penalties / interest on delayed payments for the same	Can be accepted. Since in certain R. O. cases, the CGRF has directed DISCOM not to levy additional charges for the delayed payment on the outstanding amount as per clause 9 of Regulation 7 of 2013 and interest charges on the back billing amount.
iii)	To provide minimum of 12 equal instalments to pay the amount without interest	Can be accepted. Since clause 4.6.1 of Regulation No. 7 / 2013 limits the number of instalments to 12. No additional charges for delayed payment on the outstanding amount for which instalments are granted are permitted under this clause.
iv)	To reimburse the amounts already paid and credit them into their bank accounts.	The excess amount paid, if any, shall be adjusted in the future CC bills of the concerned consumer.
v)	To make applicable to all the RO / Water processing plants in the state of Telangana	The order will be applicable to only to those applicants who have approached Nodal Officer of TSSPDCL viz., for the S.C. Nos. 1212603818, 1212603775, 1862100360, 175360023, 175700638 and 186907759."

44. The Commission notices that the issue can be amicably resolved without going into the merits for the present in view of the conclusions arrived at by the

DISCOM through the nodal officer. Though several aspects have been addressed on both sides the same are being considered for the present in view agreement expressed by the licensee and the applicant. It is also relevant to make it clear that the findings arrived at either by the CGRF or the Ombudsman in several cases from the year 2014 are not being adverted to or any opinion is being expressed at this point of time leaving it open to be raised in appropriate cases as the same remained unchallenged, having noticed that no such information is placed before the Commission.

45. Therefore, in the circumstances, the applications are disposed by with the following directions.

a) The amendment sought by the applicants of the tariff order for the year 2015 – 16 as passed in O P No. 76 of 2015 remains unaltered.

b) The proposal for reduction of back billing amount by 75% is not accepted. However, it is directed to arrive at an amicable figures of payment and as a special case, TSSPDCL is directed to limit the assessed period of back billing cases of RO / Water processing plants, those who have approached the Commission in these applications as also the Nodal Officer / TSSPDCL, to a period of twelve (12) months immediately preceding the date of inspection, subject to following condition that an undertaking shall be given by the applicant that they shall withdraw all the cases, that may have been filed before Hon'ble High Court and pending as such as on the date of such undertaking, to avail the benefit of this order.

(Work out the calculation sheet of approximate revised assessed amounts by limiting the assessed period to twelve (12) months and shall be conveyed by the licensee to respective applicants)

c) In certain R. O. cases, as the CGRF has directed DISCOM not to levy additional charges for the delayed payment on the outstanding amount as per clause 9 of Regulation 7 of 2013 and interest charges on the back billing amount, the same shall be given effect to while arriving at the calculations.

d) As the clause 4.6.1 of Regulation No. 7 of 2013 limits the number of instalments to 12. No additional charges for delayed payment on the outstanding amount for which instalments are granted are permitted under

this clause, which shall be taken into consideration while giving effect to his order.

e) The excess amount paid, if any, shall be adjusted in the future CC bills of the concerned consumer and the said amount shall be clearly depicted in the consumer's bill.

f) The last of the submissions of the DISCOM is not accepted. To avoid litigation and multiplicity of the applications before the Commission or any other forum, the DISCOM shall specifically identify such those cases where the consumers have already approached any court of law including but not limited to the CGRF and Ombudsman and give effect to this arrangement.

g) The Federation being the applicant in the first application mentioned supra shall coordinate with the licensee for smooth implementation of the order in favour of the other applicant as also in like case as detailed in clause (f) above of this order.

46. Subject to this arrangement the applications pending before the Commission are disposed of, but in the circumstances leaving the parties to bear their ow costs.

***This order is corrected and signed on this the 2<sup>nd</sup> day of January 2019.***

**Sd/-  
(ISMAIL ALI KHAN)  
CHAIRMAN**

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