



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500004

R.P.(SR) No. 13 of 2020

In

O.P.No.17 of 2020

Dated 13.05.2020

Present

Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Between:

1. Southern Power Distribution Company of Telangana Limited,
6-1-50, Mint Compound, Hyderabad, Telangana – 500 063.
 2. Northern Power Distribution Company of Telangana Limited,
H.No.2-5-31/2, Corporate Office, Vidyut Bhavan,
Nakkalgutta, Warangal – 506 001. Review
- Petitioners/beneficiaries

AND

-Nil-
Respondent

This review petition having stood over for consideration to this day, the Commission passed the following

ORDER

The above named review petitioners being the Southern Power Distribution Company of Telangana Limited (TSSPDCL) and Northern Power Distribution Company of Telangana Limited (TSNPDCL) (collectively called DISCOMs or licensees) have filed a petition under clause 32 of TSERC Conduct of business regulations, 2015 read with Section 94 (1) (f) of the Electricity Act, 2003 (Act, 2003) seeking review of the order of relaxation to the HT consumers issued in Suo-Moto order in O. P. No.17 of 2020 dated 29.04.2020 on Mitigation of Impact of COVID-19

through relaxation of clause 5.9.4.2 of General Terms and Conditions of Supply (GTCS) and Clause 7.3 of Schedule I of Regulation No.5 of 2016 being the regulation on Licensees' Standards of Performance.

2. The review petitioners have stated hereunder in the petition.
 - i) The Commission has issued a *Suo-Moto* order in O.P.No.17 of 2020 dated 29.04.2020 on Mitigation of Impact of COVID-19 through relaxation of clause 5.9.4.2 of GTCS and clause 7.3 of Schedule I of Regulation No.5 of 2016.
 - ii) It is stated that clause 5.9.4.2 of GTCS enables a HT consumer to de-rate Contracted Maximum Demand (CMD) or terminate the supply agreement duly giving 1 month prior written notice to the DISCOMs after completion of one year minimum agreement period. The DISCOMs shall reduce the CMD contract demand/contracted load of such consumer before the expiry of the second billing cycle after the receipt of such request as per clause 7.3 of Standards of Performance (SOP) regulation.
 - iii) The Commission has issued a *Suo-Moto* order in O.P.No.17 of 2020 dated 29.04.2020 by providing relaxations to the clauses 5.9.4.2 of GTCS and 7.3 of SOP regulation by allowing the HT consumers to de-rate the load even though the one year minimum period of agreement has not been completed and the DISCOM shall give effect the deration of CMD within 5 days from receipt of the consumer's request. Further mentioned that these relaxations are for the period of lockdown due to COVID-19 and the consumers are at liberty to restore the load post lifting of lockdown period.
 - iv) In this pandemic situation, DISCOMs while understanding the difficulties faced by the industrial consumers in the State submit the following concerns of the DISCOMs before the Commission for consideration.
 - a) It is stated that the COVID-19 pandemic is not only affecting the businesses of the consumers but also affecting the supply chain of the power industry throughout.
 - b) In order to ensure 24x7 uninterrupted power supply to all the consumers in all the situations, the DISCOMs are continuously procuring the power and balancing the loads at all times.
 - c) The DISCOMs have not been provided any relaxations on payment of fixed and variable charges to the generators. In fact, the DISCOMs

have been asked to make late payment surcharges in few cases where the payment has been delayed to the generator even in this pandemic situation. The DISCOMs has to make payments to the generators inevitably on time as per the power purchase agreements and no deferment of payments is accepted by the generators.

- d) It is known fact that the DISCOMs couldn't recover entire fixed charges through demand charges from the consumers and major portion used to be recovered through energy charges from the consumers. In these present conditions where the industries have shut their operations and are only making payment of minimum energy charges which will cover only insignificant portions of fixed cost commitments of DISCOMs.
- e) Further, the Commission in O.P.No.16 of 2020, taking into consideration the directions of Government of Telangana, had deferred the payment of fixed charges by the industries till 31.05.2020 without any penalty and interest. Further, those industries which pay the bills within due date shall get 1% rebate of billed amount during the lockdown period.
- f) It is pertinent to mention that as per the directions from Ministry of Power in the recent past, the DISCOMs are insisted to provide a Letter of Credit to the generators as per the PPAs, which has blocked the DISCOMs working capital finances and thrown into serious financial crisis.
- g) The DISCOMs do have a service obligation to supply continuous power to its consumers but it could not be able to provide these services unless it is financially sound and able to recover the supply costs.
- h) The relaxation of clauses 5.9.4.2 of GTCS and 7.3 of SOP regulation has severe financial implications on the DISCOMs. The industrial consumers have already got relieved in this pandemic situation through getting deferment of payment of fixed charges till 31.05.2020. The latest order in O.P.No.17 of 2020 will give further choice to the HT industrial consumers to derate their load during this lockdown period and make payment of fixed charges proportionately in accordance to the loads derated. Hence the Industrial consumers are getting double benefitted by taking advantage of these present conditions.

- i) The DISCOMs are already in financial crunch and unable to collect the revenues from the consumers since lockdown and couldn't meet the operational and maintenance requirements to full extent. While the deferment of collection of fixed charges has reduced the cash inflows of the DISCOMs, the relaxation of clause 5.9.4.2 of GTCS and 7.3 of SOP regulation by reducing the fixed charges to the extent of derated load further increase the burden of the DISCOMs and hamper the operations of the DISCOMs.
 - v) The benefit of deferment of fixed charges has already been provided to the consumers considering the state of affairs and the additional benefit of reduction of load therefore reducing the fixed charges is unwarranted in the situations where the DISCOMs have to make their power purchase payments without any relaxations.
3. The review petitioners have sought the following prayer in the review petition.
“The DISCOM humbly prays the Hon’ble Commission to consider the above DISCOM submissions and review the Suo-Moto orders passed in the O.P.No.17 of 2020 dt. 29.04.2020 and withdraw the relaxations of clause 5.9.4.2 of GTCS and 7.3 of SOP regulation duly considering the plight of the DISCOMs and financial hardships faced by the DISCOMs in the present COVID-19 situations.”
4. The Commission has examined the present contents as also the prayer sought for reviewing the order passed by it on 29.04.2020. Prima facie the Commission does not find any substance in the submission now being made. The Commission may gainfully recollect the findings made in the order dated 29.04.2020.
- i) *A consumer, if it so desires to avail deration of the contracted load may apply to the licensee and is permitted to exercise clause 5.9.4.2 of GTCS irrespective of the criteria of completion of minimum period of the agreement as stipulated in GTCS.*
 - ii) *The distribution licensee shall upon such request by the consumers, give effect to the request of the consumer, who has exercised clause 5.9.4.2 of GTCS, within five (5) days on receipt of the application from such consumer.*
 - iii) *The above relaxations shall be applicable only during the lockdown period.*

- iv) *The above relaxations shall not be applicable for the period after lifting the lockdown and the conditions in the GTCS and SOP would continue to be applicable normally as before.*
- v) *The consumers are at liberty to seek restoration of the load post lifting of the lockdown.*
- vi) *In case the deration of the load happens in between the billing cycle in terms of the request of the consumer as per the relaxation given above, the distribution licensee shall endeavour to bill the consumer duly giving effect to the deration, that is billing as per the tariff order upto the date of deration and post deration of the load on the basis of the de-rated load only. The demand charges shall be levied accordingly on proportionate basis.”*

5. At the same time Commission was emphatic in observing that the Commission is also conscious of the loss that is occasioned to the DISCOMs due to deration of contracted load. The DISCOMs were directed to submit the details of revenue loss on account of this relaxation for examination.

6. In order to ascertain the factual position about the loss occasioned to the DISCOMs, the Commission had addressed a letter to the DISCOMs to place before it the details of the derations sought and the likely impact of the revenues as occasioned by the order under review. Accordingly, the Discoms have submitted the data relating to the derations and its financial impact. After careful examination of the data submitted by the DISCOMs, the Commission opined that the financial impact on account of impugned order is insignificant which can be mitigated in the ensuing determination of ARR as and when it is filed. Moreover, the said order is passed in the given circumstances as set out in the order itself and to tide over the difficult situation posed by pandemic of COVID-19.

7. Even otherwise, the present petition is seeking review of the order invoking the powers of review of the Commission under Act, 2003 and Commission's business regulation. In order to appreciate the legal position, it is necessary to notice the principles of review. Normally an order for review lies only in the following circumstances.

- a. Where there is a typographical mistake that has crept in the order.
- b. When there is an arithmetical mistake that has crept in while effecting

calculation or otherwise.

- c. When there is a mistake committed by Commission, which is apparent from the material facts available on record and/or in respect of application of law.
- d. When the Commission omitted to take into consideration certain material facts on record and 'law on the subject' and that if on taking into consideration those aspects, there is a possibility of Commission coming to a different conclusion contrary to the findings given.
- e. If the aggrieved party produced new material which he could not produce during the enquiry in spite of his best efforts and had that material or evidence been available, the Commission could have come to a different conclusion.

Upon perusal of the material on record coupled with directions recorded earlier along with the principles for undertaking review of an order by the Commission, it does not find any merit in the present review petition. No specific contentions adverting to any violating the principles for reviewing as enumerated above are raised in the review petition which would have called upon the Commission to reexamine the findings of the order.

8. In view of the observations recorded by the Commission in the earlier paragraphs, both on law as well as merits, this petition seeking review of the impugned order is devoid of merits and the same is dismissed.

This order is corrected and signed on this the 13th day of May, 2020.

Sd/-
(BANDARU KRISHNAIAH)
MEMBER

Sd/-
(M. D. MANOHAR RAJU)
MEMBER

Sd/-
(T. SRIRANGA RAO)
CHAIRMAN