



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan Lakdi-ka-pul Hyderabad 500 004

I. A. No. 16 of 2020
in
O. P .No .18 of 2020
(Suo Moto Petition)

Dated 25.02.2021

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,
Mint Compound, Hyderabad–500 034.
2. Northern Power Distribution Company of Telangana Limited,
H.No.2-5-31/2, Corporate Office, Vidyut Bhavan,
Nakkalgutta, Hanamkonda, Warangal–506 001. ... Applicants

AND

None- ... Respondent
M/s Hyderabad Metropolitan Water Supply & Sewerage Board,
Khairatabad, Hyderabad–500 004. ... Respondent/(Added by the Commission)

This application has come up for hearing on 11.12.2020. Sri Mohammad Bande Ali, Law Attaché of TSSPDCL for applicants and Sri Satya Lingam, OSD (Finance & legal) on behalf of Managing Director for respondent appeared through virtual hearing on 11.12.2020. This application having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

TSDISCOMs have filed an interlocutory application filed under clause 32 of TSERC Conduct of Business Regulations, 2015 read with section 94 (f) of the Electricity Act, 2003, seeking modification of the order of tariff to be applicable to

Hyderabad Metropolitan Water Supply & Sewerage Board (HMWSSB) as per the Suo Moto order dated 18.07.2020 in O.P.No.18 of 2020 in terms of the directions of the Government under section 108 of the Electricity Act, 2003. The facts of the case as submitted by the Applicants is as under:

- a. The Commission in para 9 of the order has issued consent to supply power to all water supply pumping stations of HMWSSB at a tariff with energy charges at Rs.3.95/unit as decided by the Government in G.O.Ms.No.148 dated 03.08.2018 and the directions given to the Commission in the letter dated 26.06.2020 from FY 2018-19 onwards and continue to do so till a final view is taken by the Commission on determination of tariff for retail supply for FY 2019-20 and FY 2020-21 and also in true up of retail supply tariff for FY 2018-19.
- b. The following contentions of the DISCOMs are put up before the Commission on implementation of the order.
 - i. Revision of tariffs for FY 2018-19 without any subvention in accordance with section 65 read with section 62 (4) of the Electricity Act, 2003.
 - ii. Extension of revised tariffs for HMWSSB services covered under HT-IV (B) category.

A. Revision of tariffs for FY 2018-19 without any subvention to DISCOMs.

- i. As per section 65 of the Act, *“If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under Section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government.”*
- ii. While pronouncing the order for determination of tariff order for FY 2018-19 in O.P.No.21 and 22 of 2017 dated 27.03.2018, the Commission in para 1.1.2 has mentioned as follows:
“...This Commission having been established u/s 82 (1) of the Act, 2003 is required to exercise the powers and functions vested in it in terms of section 86 and section 62 (1) of the Act, 2003 to determine the tariff for

(1) supply of electricity by a generating company to a distribution licensee; (2) transmission of electricity; (3) wheeling of electricity; and (4) retail sale of electricity as the case may be within the State of Telangana.”

- iii. As per section 62 (1) of Electricity Act, 2003, no tariff determined can be amended except in case of changes through fuel surcharge adjustment formula [Section 62 (4)]. Hence, if the tariffs for FY 2018-19 is amended in extra-ordinary circumstances under the directions of the GoTS under section 108 of the Act, the order shall explicitly provide subvention to the DISCOMs for revenue loss to be incurred on such differential tariffs. Section 65 of Act categorically lays that “...*notwithstanding any direction which may be given under section 108, the State Government shall grant subsidy to any consumer or class of consumers in the tariff determined under section 62.*”
- iv. There is no revision of tariff in TSDISCOMs since FY 2017-18. If the orders dated 18.07.2020 of the Commission are to be implemented with effect from FY 2018-19, TSDISCOMs are bound to incur a revenue loss of Rs.244.57 crore (TSSPDCL–Rs.200.92 crore and TSNPDCL–Rs.43.65 crore) for FY 2018-19, Rs.257.38 crore (TSSPDCL–Rs.204.60 crore and TSNPDCL–Rs.52.78 crore) for FY 2019-20, Rs.63.59 crore (TSSPDCL–Rs.50.08 crore and TSNPDCL–Rs.13.51 crore) for the 1st quarter of FY 2020-21 and further an amount of Rs.21.19 crore (TSSPDCL–Rs.16.69 crore and TSNPDCL–Rs.4.50 crore) per month till revised tariff orders are approved due to tariff revision and withdrawal of revenue. Hence, the total impact on revenue is Rs.538.95 crore upto June, 2020 for TSDISCOMs including Rs.83.35 crore towards surcharge to be withdrawn.
- v. Hence, it is prayed that the Commission may be pleased to review the orders passed in O.P.No.18 of 2020 in respect of tariff order for FY 2018-19 and pray the Commission to address a letter to the GoTS in order to obtain necessary financial assistance to the DISCOMs for implementation of the orders of Commission.

B. Extension of revised tariffs for HMWSSB services covered under HT-IV (B) category.

- i. The Commission has revised the tariffs of two categories that is HMWSSB services being billed in HT-I (A) industrial and HT-IV (B) CPWS with energy charges limiting to HT-V (B) HMR tariff. It is stated that the category HT-IV (B) tariff is not applicable to HMWSSB as they supply water to GHMC area only and hence there is no need to revise the tariff in respect of HT-IV (B) category. It is also pertinent to note that as per G.O.Ms.No.148 dated 03.08.2018 issued by MA&UD, GoTS, HT-I (A) industrial category tariff is applicable to HMWSSB and the same shall be made equivalent to HMR tariff. Nothing is mentioned about HT-IV (B) category tariff in the said G.O.
 - ii. Further two HMWSSB services under TSSPDCL area which were wrongly categorized under HT-IV (B) earlier has been rightly categorized under HT-I (A) category as per the existing conditions of the tariff order from the date of supply of June, 2020. Hence, there are no services under HT-IV B category relating to HMWSSB in TSSPDCL and TSNPDCL supply areas.
 - iii. Hence, in view of the above, the licensees request the Commission to withdraw the tariff that is made applicable to HMWSSB services covered under HT-IV (B) category.
- c. The DISCOMs pray the Commission to consider the above submissions –
- i. To withdraw the revised tariff made applicable to HT-IV (B) category and
 - ii. To advise the GoTS to reimburse the revenue loss to be incurred by the DISCOMs on account of implementation of the revised tariffs duly considering the plight of the DISCOMs and financial hardships faced by the DISCOMs.
2. The respondent has filed counter affidavit and the contents of it as below:
- a. In the year 1989, the then Legislature of the State of Andhra Pradesh made an enactment called the Hyderabad Metropolitan Water Supply and Sewerage Act, 1989 (Act 15 of 1989) and came into force from 01.11.1989. Under section-3 of the Act, the Board by the name Hyderabad Metropolitan Water Supply and Sewerage Board (HMWSSB/Board) was constituted. The Board's main duties

are that (a) supply of potable water, including, planning, design, construction, maintenance, operation and management of water supply system; and (b) sewage disposal and sewage treatment works including planning, design, construction, maintenance, operation and management of all sewerage and sewage treatment works in and around the twin cities of Hyderabad and Secunderabad and surrounding Municipalities and upto Outer Ring Road (ORR). The Board has also been implementing several schemes in its jurisdiction meant for all categories of people, viz, generally poor, below poverty line, slum dwellers, cluster hutments, public taps, etc., and also undertaken several developmental Schemes, laying of new pipelines, etc., keeping in view the future demand of the twin cities and surrounding municipalities and upto ORR.

- b. The respondent herein is very grateful to the Commission for issuing orders in O.P.No.18 of 2020 (Suo Moto) on 18.07.2020 fixing Tariff (Energy Charges) at concessional rate to all water supply pumping stations of HMWSSB at the rate Rs.3.95 per unit as decided by the State Government, Telangana, vide G.O.Ms.No.148 MAUD (E-2) Department dated 03.08.2018, (on the basis of the Special Chief Secretary, Energy Department of Telangana Government, Hyderabad, vide letter dated 26.06.2020 for extending the power tariff at the concessional tariff from FY 2018-19 (on true-up basis) onwards and continue the same facility till final view is taken by the Hon'ble Commission for the FY 2019-20 and FY 2020-2021).
- c. In terms of Section 65 of the Electricity Act, 2003 the respondent/HMWSSB has been continuously following up with the State Government for subvention as required. However, there is a delay in getting the subvention by way of direct financial assistance and/or budget allocation, which is explained in detail in the following paragraphs.
- d. The State Government has given assurance to extend the same at the earliest, when the G.O.No.148 dated 03.08.2018 was issued. The respondent/HMWSSB has been continuously following up with the State Government for budget support, but due to some or other reasons the same has been delayed. As stated by the applicant that a gross amount of Rs.588.67 (Rs.538.95) crore upto June, 2020 is required to be granted by the State Government as subvention.

- e. Further, in terms of Section 62 (4) of the Electricity Act, 2003 it urges upon the Commission that the orders issued by the Commission fixing up concessional power tariff to HMWSSB may please be continued and further request that the same order may please be extended for FY 2021-22 onwards.
- f. The power tariff has been extended to the respondent/HMWSSB vide Commission's order dated 18.07.2020 under HT-IV (B) category may be changed as may deem fit by the Commission.
- g. The energy services extended to the respondent/HMWSSB under the categories of HT-I Industrial category was revised and now supplied under the category of HT-V(B) HMRL be continued.
- h. The Original Application No.10 of 2020 filed before the Commission and also O.P.No.18 of 2020 (Suo Moto) may please be treated as part of this counter affidavit. The respondent/HMWSSB has explained in detail, the pursuance of its unstint efforts with the Government to get the concessional power tariff for more than a decade, which the respondent could succeed to get the sanction in 2018.
- i. The respondent/HMWSSB has no other source of income except the recovery by way of tariff from the consumers which has been meeting its day-to-day operations of HMWSSB, while the capital expenditure for the expansion schemes have been funded by the Government, from time-to-time. A scenario of financial position is given below for the last 4½ years.

Statement Showing Board Operational Collection & Expenditure as on 31st October, 2020.

(Rs.in crore)

Type	Sl. No.	Particulars	2016-17	2017-18	2018-19	2019-20	2020-21 (Oct-2020)
INCOME	I	Water & Sewerage Cess	1075.18	1083.24	1170.57	1110.94	705.00
	II	New Connections	193.76	185.47	232.14	281.75	112.85
	Income Total (A)		1268.94	1268.72	1402.71	1392.69	817.85
EXPEN DITUR	1	Establishment Expenses	412.08	452.01	443.82	454.48	273.41

Type	Sl. No.	Particulars	2016-17	2017-18	2018-19	2019-20	2020-21 (Oct-2020)
	2	Loan Repayments	87.42	55.00	43.90	42.86	25.00
	3	Power Charges	805.62	885.53	991.94	1143.56	599.16
	4	Operations & Maintenance	53.36	81.09	96.82	170.92	110.27
	5	LOC to Divisions	52.94	39.94	38.69	36.58	22.14
	6	Administrative Expenses	48.46	51.59	6.64	68.68	38.89
	7	Interest & Finance Charges	27.51	19.87	10.62	6.61	2.10
	8	Stores Purchases	13.88	13.68	13.23	46.49	12.75
	9	Hudco Repayments	-	-	-	-	-
	10	TSM DP Margin share	-	-	-	-	-
		Expenditure Total (B)	1501.27	1598.72	1702.66	1970.18	1083.72
		Surplus/Deficit (A-B)	(232.33)	(330.01)	(299.95)	(577.49)	(265.86)

- j. The respondent/HMWSSB has been incurring net loss @ Rs.232.33 crore for FY 2016-17, Rs.330.01 crore for FY 2017-18, Rs.299.95 crore for FY 2018-19, Rs.577.49 crore for FY 2019-20 and Rs.265.86 crore for FY 2020-21 (upto October, 2020). The above deficit is only on account of operations of the Board which does not include the capital expenditure.
- k. There is vast urbanization of the City of Hyderabad and it has become challenging job to supply potable water to all the citizens in and around the Hyderabad. The maintenance of sewerage system has also become a challenging job for the respondent Board. The present operational area is about 1,570 sq.km includes GHMC and upto ORR. The supply of drinking water to the Citizens in its jurisdiction has become a challenge job with Concessional Tariff with an average recovery of Rs.10/- per kL against its cost of production at Rs.47 per kL.

- I. The proposed concessional power tariff as sanctioned to the respondent/HMWSSB, it will be a great help in respect of sustenance of its operations financially, and it would help to achieve self-sufficiency over a period; otherwise, the operations would get suffered to a greater extent. It is further submitted that the cost of production is increasing day by day, while tariff has been retained at old rates for the last 9 years without burdening the citizens of Hyderabad in general. HMWSSB has been maintaining uninterrupted supply of potable water to all the Citizens in its jurisdiction.
- m. The respondent/HMWSSB has been continuously following up with the Department of Energy, Department of Finance through our parent department, MAUD for getting subvention by way of budgetary support which is under consideration by the State Government. The delay is also due to COVID-19 pandemic situation prevailing from March, 2020, local body election, etc.
- n. It is understood that the State Government is at the verge of presenting its budget for the FY 2021-22, expected to be during the month of February-March, 2021, for which the budget exercise is in progress in the State Government from the months of November/December, 2020. The respondent/ HMWSSB has been continuously following up with the State Government for providing subvention by way of budgetary support in the proposed budget, and we are hopeful of getting the financial support. Any adverse decision by the Commission would be a great suffering to the respondent/HMWSSB and it would greatly hamper the operations of the Board.
- o. In view of the submissions made as above, the Commission may grant –
 - (i) time for a period of 3 months, i.e., till the budget is placed before the Legislative Assembly by the State Government and/or till the subvention is granted by the State Government; and
 - (ii) the sanction of concessional power tariff may please be extended from the FY 2021 onwards on perpetual basis.

3. The Commission had heard the representative of the DISCOMs and the representative of the respondent in this interlocutory application. The Commission took note of the background for this application as it has initiated the original proceedings pursuant to communication received from the Government under section 108 of the

Act, 2003. The submissions of the representatives on the date of hearing are reproduced below:

“The representative of the respondent in this interlocutory application stated and explained in detail the steps being taken by the board for ensuring water supply to Hyderabad city and its peripheral area falling within the outer ring road. The representative gave the details of the financial expenditure as also the amount of water being supplied at present to the consumers of Hyderabad city. The licensee has requested it to part with the difference of amount that is the result of the tariff fixed by the Commission and the actual tariff applicable to them. The board had taken steps to make available the subvention directly from the government and has been corresponding with its parent department that is Municipal Administration and Urban Development as also Energy Department of the government. They need three months’ time to ensure subvention for the next year also as the budget exercise has already began in the government. As for the present, the Commission may continue the tariff upto 31st March, 2021. The total subvention likely to be committed by the government to the licensee is about Rs.580 crore.

As the licensee is required to comply with the directions of the government, the representative of the respondent requests that no order may be passed considering the public interest involved in undertaking water supply, as any order would jeopardize the revenues earned towards water supply for undertaking development activities. If the order of the Commission is modified, the entire revenues will be lost in paying electricity charges only.

The representative of the licensee stated that the licensee is constrained to seek orders for the release of subsidy by the government as it is undertaking 24 hours power supply to all consumers and is involved in serving the consumers at large. The Commission had passed this order for implementing the orders of the government in the suo moto proceedings. The licensee prays the Commission to safeguard its interest in the matter of revenue and tariff and ensure grant of subvention from the government to facilitate extending the tariff as directed by the government as ordered by the Commission. The Commission may consider the request of the parties.”

4. The Commission noticed that the applicant in this I.A. has sought two-fold prayer as extracted above at para 1 (c). With regard to the first point of the prayer viz., to withdraw the revised tariff made applicable to HT-IV (B) category, the Commission in its order dated 18.07.2020 in O.P.No.18 of 2020 at paragraph 5 extracted the relevant notice that the Government in its letter dated 26.06.2020 had stated which is reproduced below:

“3. In light of the above, I am to inform that Government have examined the matter and decided and accordingly issue directions under Section 108 of the Electricity Act, 2003 to the Commission, for levying the tariff at the HT-V (B) commercial category at Rs.3.95 per kWh on par with HMRL (Metro) towards Energy charges for all Water supply pumping stations of HMWSSB with immediate effect for FY 2020-21 by issuing an amendment to the existing Tariff order for the FY 2020-21.”

5. The Commission considers that the issue of tariff is with reference to public utilities, one of the parties is supplier and other is the consumer who consumes it for the purpose of providing public utility service of water supply. The reasoning has been discussed elaborately while passing the ad interim order why the tariff needs to be considered at par with the tariff of HMRL and what are the categories of consumption that are brought on par with category under HT-V (B) insofar as the consumption under HT-I (A) and HT-IV (B) of HMWSSB. As observed earlier, the tariff now being allowed is only made applicable as an interim measure and is subject to the final outcome of the pending proceedings in the original petition as also the tariff filing that may be made by the applicant herein. This Commission had accepted directions of the Government under section 108 of the Act, 2003 and had passed an ad interim order to provide concessional tariff to the respondent in this application. The Commission while doing so was giving effect to the decision of the Government more particularly the policy adopted to facilitate concessional tariff to water supply service as had been decided and communicated in G.O.Ms.No.148 MA&UD Department dated 03.08.2018, furtherance letter of the Government dated 26.06.2020. On the one hand the applicants do not chose to file the necessary petitions for determination for retail supply tariff so that the tariff for the other public utility service is crystalised as directed by the Government in the year 2018 itself, on the other hand seeking to roll back the tariff without there being any statement as to the withdrawal of the decision by the

Government, is neither appropriate at this stage of the proceedings nor correct for this Commission to review its own order in the guise of this application. Thus the first point of the prayer of the application is refused.

6. With regard to second point of the prayer in the application viz., GoTS to reimburse the revenue loss to be incurred by the DISCOMs on account of implementation of the revised tariffs, the Government in its decision was clear that the applicant herein is entitled to subvention for the revenue loss incurred by them.

7. The Commission had passed orders dated 18.07.2020 in present O.P.No.18 of 2020 and observed as below:

“13. The Commission is of the view that though the proceedings are initiated in original petition form as the decision to be taken involved multiple years pursuant to directions by the Government under Section 108 of the Electricity Act, 2003, any order made herein above constitutes an amendment to the tariff fixed in so far as for all water supply pumping stations of HMWSSB in O.P.Nos.21 and 22 of 2017 which has been continued for the FYs 2019-20 and 2020–21 by the orders of this Commission dated 06.11.2019 and 20.03.2020.

14. The Commission makes it clear that this order is specifically made in the circumstances and the factual position obtained hereinabove and there is no relevance to any other consumer/organisation.”

8. The Commission had emphatically made it clear as to the aspect of subvention that the applicants herein shall pursue the matter with the Government and HMWSSB in order to give effect to the order passed by this Commission. It was clearly worded that the order is being passed as ad interim measure.

9. The Commission at this stage would seek to recall its observations in so far as subvention is concerned as observed in its order dated 18.07.2020 which is reproduced below:

“10. However, the Commission directs the licensee to pursue with the HMWSSB and the Government in obtaining necessary subvention to that effect due to implementation of the directions of the Government as well as this Order of the Commission. It shall also place before the Commission along the aggregate revenue requirement proposals for the FY 2019-20 and FY 2020-21

with the above stated tariff applicable for all water supply pumping station of HMWSSB and true-up filings for FY 2018-19 along with the details of subvention amounts received in respect of their retail supply business.”

10. The Commission notices that there is no pleading in the application as to their efforts that have been made pursuant to order of the Commission in so far as subvention is concerned. Also, the applicants have not completed the statutory mandate of filing proposed retail supply tariff for the FYs 2019–20 and 2020–21, the present application appears to be lopsided.

11. This Commission is of the view that having been considerate to the licensees and also ensuring compliance of the directions of the Government, had only passed an ad interim order and left the issue open to be decided finally as and when retail supply true up ARR and FPT are filed by the licensees. Such being the case, and in view of the submissions of the representative of the respondents that the issue of the subsidy is being vigorously pursued with the Government, the licensee have filed this application contrary to the stand of the Government and the actions taken by themselves.

12. Nothing prevented the applicants in this application from pursuing with the Government for the necessary subvention as it is related to another public utility service and the respondent being a sister public utility as also both being owned by the Government. In fact as noticed above, the Government on its part had taken a decision at the highest level as to the action to be taken on their part, now what remains is the final action by the respective departments which the applicant should as well coordinate so that they get the necessary subvention.

13. No whisper is made in the application or by way of any documents as to the action taken by them in ensuring compliance of the directions of the Commission which were the culmination of the directions of the Government to it under the statutory provisions of the Act, 2003. It is also appropriate to reiterate that the Commission has in no uncertain terms had directed them to pursue the matter to get the subvention with the Government as also left the applicability of the tariff open to be finally decided at the time of determination of retail supply tariff.

14. In the light of the observation made in the ad-interim order as also herein above, this Commission is of the considered view that the present application cannot be entertained and it fails. Accordingly, the application for directions is refused. The original petition stands tagged to the retail supply tariff petitions as and when they are filed.

15. Before parting with this application, the Commission records the undertaking given by the licensee that it will not disconnect the power supply to the water board till the issue is finally decided by this Commission.

This order is corrected and signed on this the 25th day of February, 2021.

Sd/-
(BANDARU KRISHNAIAH)
MEMBER

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

Sd/-
(T. SRIRANGA RAO)
CHAIRMAN

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