



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

O.P.No.15 of 2016

Dated 16.06.2021

Present

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

Between:

Garrison Engineer (AF),
Hakimpet, Secunderabad – 500 014. ... Petitioner

AND

Nil ... Respondent

Southern Power Distribution Company of Telangana Limited,
6-1-50, Mint Compound,
Hyderabad – 500 063. ... Objector added by the Commission

The petition came up for hearing on 12.06.2017 before the earlier Commission and stood adjourned Lt. Colonel Sourabh Dutt for the petitioner and Sri B.Vijaya Bhaskar, Advocate representing Sri Y.Rama Rao, Standing Counsel for the objector has appeared for the physical hearing on 12.06.2017. It is now posted for virtual hearing through video conference on 21.01.2021, 04.03.2021 and 18.03.2021. There was no representation on behalf of the petitioners on 21.01.2021, 04.03.2021 and 18.03.2021. Sri Mohammad Bande Ali, Law Attaché for the objector has appeared through video conference on 21.01.2021, 04.03.2021 and 18.03.2021. The petition having stood over for consideration to this day, the Commission passed the following:

ORDER

The Garrison Engineer (AF), Air Force Station, Hakimpet, Secunderabad has filed a petition under section 62 and 64 of the Electricity Act, 2003 (Act, 2003) for determination of tariff to be supplied within its area of operation. The contentions of the petitioner are as hereunder:

- a) The petitioner is granted deemed license status by the Commission by order made in O.P.No.1 of 2015 dated 20.11.2015. In para 11 of the said order it was stated in that “*at this stage, when tariff is already fixed this Commission will not be in a position to reopen the tariff at the fag end of the financial year. Any revision to the tariff can be made only during the next tariff revision based on the ARR of the respondent DISCOM. The petitioner can present their case before the Commission during the Tariff revision process.*” So, this petition is submitted.
- b) The petitioner is a subordinate organization of the Ministry of Defence entrusted with and consequently engaging in supply of electric power and meets the requirements as provided in third provision to section 14 of the Electricity Act, 2003 is an “*Appropriate Government*” engaging in distribution of electricity and deemed licensee as per O.P.No.1 of 2015 dated 20.11.2015.
- c) The annual energy consumption of the division is 73,96,190 units and the annual energy charges as Rs.501.91 lakh. The details of HT connections are as given below:

Sl. No.	Area/Location	Connection Number	CMD in kVA	Annual Energy Consumption kWh	Annual Energy Charges Rs.in Lakh
1)	QMQ	HDN-574	200	482884	28.88
2)	Tech Area Md Accn	HDN-575	170	594901	35.61
3)	Tech Area	HDN-590	650	2713254	197.53
4)	NP Ara MD Acn	HDN-669	200	834862	61.6
5)	CAW Md Acn	HDN-549	300	1072510	64.35
6)	AFS Begumpet	HDN-571	200	769491	46.17
7)	CAW College ARea	HDN-625	115	339043	24.75
8)	AFS Begumpet Signal Section	HDN-1268	80	343132	25.05
9)	AFS Begumpet NTS	HDN-1394	100	246113	17.97
Total				7396190	501.91

- d) The load structure of Military Engineer Services (MES) is entirely different from the case of other normal consumers who are classified

under various categories. As also the nature of duty of defence personnel compel them to move on duty for defence operations on short notices causing a sudden drop in maximum demand of power. Further, there is no profit element of commercial business in defence stations served by MES. So, separate tariff for the petitioner is fully justified.

- e) In the light of the above, it is prayed that the Commission to allow the present petition for -
- i) Waival of Demand Charges;
 - ii) Separate tariff category for GE (AF) Hakimpet;
 - iii) Tariff fixed on Deemed licensee basis;

2. The petitioner has published a Public Notice in daily newspapers Telugu and English inviting objections/suggestions on their filings from the interested persons.

3. The Southern Power Distribution Company Limited (TSSPDCL) is the lone objector and filed its comments/objections, and stated as below:

a) The basic question of maintainability of the petition is to be dealt with respect to the following aspects:

- i) As per clause 47 of the distribution license Regulation, *“The Distribution Licensee including Deemed Licensee shall follow the methodology, procedures and directions included in the tariff regulations and in other orders of the Commission as may be issued from time to time, while filing the statement of Aggregate Revenue Requirement (ARR) from charges and for proposing or amending any or all of its tariffs.”*

And as per clause 49 of the Distribution License Regulation *“The general conditions of Chapter IV and other provisions of this regulation, other than specifically excluded rules, shall apply to a deemed licensee under sub–section (b) of Section 14 and also under the first, third and fifth proviso of Section 14 of the Act.”*

- ii) Hence licensee including deemed licensee has to follow all the conditions which are followed by the distribution licensees as stipulated in the regulations.

- iii) As per the clause 6 of APERC Regulation 4 of 2005 (Terms and Conditions for determination of Tariff for Wheeling and Retail sale of electricity) adopted by TSERC vide Regulation 1 of 2014, *“Every Distribution Licensee shall file for each of its licensed business an application for approval of its Aggregate Revenue Requirement (ARR) for each year of the Control Period, not less than 120 days before the commencement of the first year of the Control Period”*. Hence, the deemed licensee has to file the petition for ARR before 30th November, 2016 for determination of tariff as stipulated in the Regulations.
- iv) As per the Tariff Regulations i.e., APERC Regulation 4 of 2005 (Terms and Conditions for determination of Tariff for Wheeling and Retail sale of electricity) adopted by TSERC vide Regulation 1 of 2014, the ARR filings for Distribution Business shall contain the following:
- i. The Operation and Maintenance (O&M) costs which include employee-related costs, repair and maintenance costs and administrative & general costs, estimated for the Base Year and the year prior to the Base Year in complete detail, together with the forecast for each year of the Control Period based on the norms proposed by the distribution licensee including indexation and other appropriate mechanisms in terms of the principles enunciated in this regulation for O&M cost allowance;
 - ii. Regulated Rate Base (RRB) for the Base Year and each year of the Control Period which requires submission of the working capital requirement and a detailed scheme / project-wise Capital Investment Plan with a capitalisation schedule covering each year of the Control Period consistent with the Commission's approved Resource Plan;
 - iii. A proposal for appropriate capital structure and its cost of financing (interest cost and return on equity) for the purpose of computing Weighted Average Cost of Capital;

- iv. Targets proposed for reduction of distribution losses during the Control Period duly adhering to the Licensees' Standards of Performance Regulation;
- v. Details of depreciation, including Advance Against Depreciation if any required and capitalisation schedules for each year of the Control Period;
- vi. Description of external parameters proposed to be used for indexation;
- vii. Details of taxes on income;
- viii. Any other relevant expenditure;
- ix. Proposals for sharing of gains and losses;
- x. Proposals for efficiency parameter targets;
- xi. Proposals for rewarding efficiency in performance;
- xi. Any other matters considered appropriate;

And the ARR filings for retail supply business shall contain:

- i. Power purchase costs for each year of the Control Period. The power purchase costs shall also include the transfer price of own generation for the supply business in line with the power procurement plan approved by the Commission as part of the distribution licensee's resource plan;
 - ii. All other items mentioned for the distribution business to the extent applicable and in accordance with cost allocation statement mentioned in clause 5 of the Regulation;
- v) The following are the discrepancies observed in the petition filed by the petitioner:
- The petitioner did not follow the MYT principles of submission of load forecast plan, power procurement plan and power availability for Control Period as mentioned in the tariff Regulation No.4 of 2005.
 - The petitioner did not file its ARR and Cost to serve to the Consumers which forms the basis for tariff determination exercise.

- There is no mention of Distribution costs and Retail supply costs in its filings as required by in the Regulation.
- vi) The petitioner has simply sought the waiver demand charges, separate tariff category and tariff fixation on deemed licensee basis by mentioning the annual energy consumption of 73,96,190 units and the annual energy charges of Rs.501.91 lakh, without any submission of relevant data as required and without any proper justification.
- vii) Mere holding of deemed distribution license will not guarantee any sort of concessional treatment such as waiver of demand charges under any provisions of the Electricity Act, 2003 which has been strongly condemned by the Commission in its order O. P. No.1 of 2015. *“In view of the authoritative pronouncement of the Hon’ble Appellate Tribunal for Electricity Laws in Appeal No.1 / 2008, in the matter of Military Engineer Services, Punjab vs Punjab State Electricity Regulatory Commission, this Commission cannot concede to the request of the petitioner for separate, preferential and concessional tariff.”*
- b) In case GE (AF), Hakimpet wants to purchase power for distribution among its consumers from the TSSPDCL a separate power sale agreement with specific terms and conditions as approved by the Commission has to be entered at fresh.
- c) The Commission is required to fix trading margin to the TSSPDCL in case the GE (AF) wants to purchase power from the TSSPDCL.
- d) In this regard, the DISCOM requests the Commission to
- i) Reject the tariff determination petition filed by the GE (AF), Hakimpet on the ground it does not follow the tariff regulations and distribution license regulations of the Commission
 - ii) Specify the license terms and conditions applicable for deemed distribution licensee
 - iii) Fix trading margin for performing trading functions for sale of power to other DISCOMs such as deemed distribution licensees.

4. The predecessor Commission had heard the representative of the petitioner and counsel for the objector, but adjourned the matter. The present Commission undertook hearing and issued notice for appearance of the parties. Though notice has been served twice, but no representation came forth on 1st occasion. However, on the other two occasion they were unable connect to the virtual hearing. The record proceedings on all the days of hearing is reproduced below:

Record of Proceedings dated 12.06.2017 [before the predecessor Commission]

“.....The representative of the petitioner stated that the petition is filed for determination of tariff (purchase price), it being deemed licensee. The Commission ascertained from the representative as to the source of power procurement for undertaking supply in its area. The representative stated that they would procure power from the TSSPDCL only and no other source of power supply. He stated that the unit is being mulcted with penal charges for exceeding the demand. They will be drawing additional power only during the training seasons, which are scheduled in a particular months of a year. They seek to avoid this situation. Another contention raised by the representative is that it should be treated as seasonal consumption for the training period.

It was observed by the Commission that the petitioner could enhance the demand and consume energy within the demand, for which it has to assess what is the maximum demand required by it and in what period. The billing would be 80% of the demand and actual energy charges in the two part tariff structure. Even if the petitioner consumes less than 80% of the demand, he is required to pay charges for 80% of the demand only. In the event of exceeding the demand more than 100% then only penalty will be levied. The petitioner has to check and submit such information to the Commission. It is also observed that seasonal billing is in respect of fruits and vegetables or such seasonal industries and not to for training programs.”

Record of Proceedings dated 21.01.2021

“... As there is no representation on behalf of the petitioner, specific notice may be issued to the petitioner informing that the matter stands posted to 04.03.2021. ...”

Record of Proceedings dated 04.03.2021

“... Though the link was available to the petitioner, the representative of the petitioner is not able to make his appearance in the matter through video

conference. The representative of the respondent made submissions in the matter reiterating the contentions filed by the respondent. Since the matter is not represented by the petitioner, the matter will be decided by the Commission. In view of the inability of the representative of the petitioner, the matter is finally adjourned.”

Record of Proceedings dated 18.03.2021

“...As there is no representation on behalf of the petitioner in the matter, as such the matter is reserved for orders.”

5. The Commission noticed that the proposed prayer is not specifically related to the determination tariff to be affected by the petitioner as a deemed licensee. The relief sought herein indirectly convey that its procurement and exemption aspects and are contrary to the requirement of tariff structure that it would levy as a licensee on its consumers, whom it may cater as deemed licensee within its area of supply. That apart, it being a deemed licensee, ought to have prepared and filed the tariff proposals in terms of its aggregate revenue requirement for undertaking supply by it.

6. The proposal filed is with respect to their expenditure and certain concessions required from the existing licensee which is supplying power by treating it as any other consumer. Furthermore, this petition is filed in the year 2016 and it has not been pursued properly. Whereas as a deemed licensee, it should have complied with the Regulation No.4 of 2005 relating to retail supply tariff and to file ARR and Tariff proposals as stated supra every year. Nothing that sort has happened in this case.

7. Having regard to the facts and circumstances of the case, the Commission is of the view that relief sought for cannot be considered at this belated stage, more so in the teeth of the fact that way back in the year 2017 itself, this Commission had made specific observations about information required by it. Absence of such information and non-performance of the deemed licensee, towards complying with the regulations and conditions of the license, would not enthuse this Commission to consider the prayer of the petitioner.

8. Owing to the observations, facts and circumstance recorded above, the petition fails and accordingly the same is refused.

9. Before parting with the matter, the Commission would like to remind the fact that the petitioner is a deemed licensee granted by this Commission. It therefore expects that the said licensee henceforth would function according to the provisions of the Act, 2003 and rules along with regulations thereof.

This order is corrected and signed on this the 16th day of June, 2021.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M.D.MANO HAR RAJU) MEMBER	Sd/- (T.SRIRANGA RAO) CHAIRMAN
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