



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION**  
5<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

**R. P. (SR) No. 65 of 2022**  
in

**O. P. Nos. 58 & 59 of 2021**

**Dated 09.10.2023**

**Present**

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

Between:

M/s Telangana Ferro Alloys Producers Association,  
Road No.1, Banjara Hills, Hyderabad

... Review Petitioner.

**AND**

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

The review petition came up for hearing on 09.01.2023, 04.04.2023, 10.04.2023 and 24.04.2023. Sri. G. Arun Kumar, Advocate representing Sri. M. A. Haroon Amjad, Advocate for review petitioner has appeared on 09.01.2023, Sri. T. Avinash, Advocate representing Sri. M. A. Haroon Amjad, Advocate for review petitioner has appeared on 04.04.2023, Sri. Deepesh Bahadur, Advocate representing Sri. M. A. K. Mukheed, Advocate for review petitioner has appeared on 10.04.2023 and 24.04.2023. The matter having been heard and having stood over for consideration to this day, the Commission passed the following:

## ORDER

M/s. Telangana Ferro Alloys Producers Association (review petitioner) has filed the review petition under section 94 (1) (f) of the Electricity Act, 2003 (Act, 2003) seeking review of the order dated 23.03.2022 passed in O.P.Nos.58 & 59 of 2021. The averments of the petition are as follows:

a. It is stated that the review petitioner filed objections before the Commission on 25.02.2022 where the Commission called for objections and public hearing, accordingly the review petitioner filed objections and observations and suggestions, but the Commission without considering and without giving finding of genuine objections as well as legal grounds while passing the ARR order dated 23.03.2022, as such, it is just and necessary to file a review petition on the order with following grounds:

- i. It is stated that the Commission has not given a finding where the review petitioner specifically raised the ground that the industry's raw material itself is electricity on which the industry is totally depending and surviving upon the electricity consumption, in such circumstances the commission has to look into that the industry and its survival in the state of Telangana.
- ii. It is stated that the review petitioner has specifically raised ground No.6 that is for the financial year 2010-11 and upto 2013-2014 similar condition has been stipulated by the erstwhile APERC in the tariff order dated 2013-2014 that:

*"If the Licensees' proposal is approved, the tariff applicable for HT-I(A): Industry will be applicable for Ferro Alloy units also. At present, Ferro Alloy Units are covered under HT-I (B) category with specific tariff conditions, viz. minimum off take of 6701 kVAh per kVA / annum (at 85% load factor per annum), no demand charges, no ToD tariff and energy charges less by Rs.0.32 / kVAh compared with HT-I A: Industry General. Accordingly, these consumers have no choice in energy usage unlike other consumers and also assure revenue to Licensees. The Commission has not seen any merits in Licensees' proposal and hence not accepted the proposal of merging HT- I (B) Ferro Alloy units with HT I (A) Industry."*

It is stated that the during the financial year 2012-13, the erstwhile APCPDCL (DISCOM) initially had imposed power cuts on intimation to ferro alloy manufacturing units (FAMUs) and subsequently when the difference between demand and supply was increasing, the erstwhile APCPDCL approached the erstwhile APERC and requested to impose

restrictions under section 23 of the Act, 2003. Accordingly, the erstwhile APERC imposed restrictions from 12.09.2012 onwards by its order dated 07.09.2012. Subsequently, the same were extended by orders dated 17.04.2013, 15.06.2013 and 02.07.2013. By order dated 15.06.2013, the erstwhile APERC extended the restriction and control measures up to the billing date of September, 2013. However, when the DISCOM represented to the erstwhile APERC to lift the restrictions in view of the availability of power from the hydel stations from 31.07.2013, the erstwhile APERC by order dated 31.07.2013 removed the same with effect from 01.08.2013. As per clause 12 (b) of the said order no deemed consumption charges were to be levied by the DISCOM during the R and C measures.

- iii. It is stated that the Commission has not given any reply and finding regarding the following objections.
- b. It is stated that the ERC orders were not challenged by any authority and the same is in force as on today for this aspect absolutely there is no finding from the Commission.
  - (i) Till today the FAMUs are given following concession in supply of power from 1975 onwards.
    - i. They are treated as power intensive industry with separate category as HT-I(B) with exemption on payment of demand charges.
    - ii. The power is supplied at less rate than supplied to HT-I(A) category industries.
    - iii. No demand charges are levied for this category of HT-I(B)

The distinctive features of the FAMUs are as follows:

- i. Highly power intensive industry as 50% of the cost of the product is power alone.
- ii. Since 1975 FAMUs are the beneficiaries of concessional tariff for electricity under declared policies of central and state governments.
- iii. Load factor of ferro alloy units is very high (98%)

- iv. Because of high tariff enforced earlier the units have been closed causing severe revenue loss to the state and leading to loss of employment.

All the above factors are recognized by the APERC in its orders in I. A. No. 10 / 2002 in O. P. Nos. 29-33 of 2002.

- c. It is stated that the Commission has also not clarified where the Industry specifically setup a defence and statement of tariff 132 kV in various other states and also has not given any finding where the neighbouring state Andhra Pradesh providing the tariff for 2022-23 is Rs.4.95 per unit for manufacture of FAMUs, but the state of Telangana's tariff rate was abnormally hiked.
- d. It is stated that the Commission has failed to give any findings regarding Para No. 25 of the objections;
  - i. It is stated that the Government of Telangana (GoTS) have invited the FAMUs for revival of ferro alloy industry and granted some relief in the year 2018. Accordingly, FAMUs were reopened and started operating the industry with belief that the concessions promised for reimbursement of FSA charges will go long way in revival of FAMUs whereby converting the loss making industry into a survival business.
  - ii. It is stated that the electricity is available in the open market at present at the rate of Rs.5 per unit, whereas the DISCOMs are proposing to supply at the rate of Rs.7.46 per unit for HT-I(B) category that is for ferro alloy industries. In the year 2018, FAMUs approached GoTS for revival of ferro alloy units. In response to the request of FAMUs, the GoTS, vide letter No.582 / PR. A2 / 2018 dated 04.09.2018 considered the request of the ferro alloy industry in the state of Telangana and had intimated to FAMUs that the government would reimburse certain dues of the ferro-alloy units, including development charges.
  - iii. It is stated that the FAMUs of Telangana are supplying their production to Rashtriya Ispat Nigam Limited, that is Vizag Steel Plant at Vishakhapatnam and for them main competitors are ferro alloys units of Andhra Pradesh. The power is sought to be supplied to FAMUs in Andhra Pradesh at the rate Rs.5.01 excluding electricity duty per unit for the year 2022-23, whereas in Telangana power is sought to be charged at Rs.7.46 per unit which will increase the cost

of production by 28% compared to cost of production in the neighbouring state of Andhra Pradesh plus transportation charges and leads to permanent closure of FAMUs in Telangana leading to loss of employment, loss of revenue to state and centre and these units will be become NPAs leading to liquidation of the industry from the state of Telangana with huge loss to banks which have lent to this industry. The proposal submitted by DISCOMS is not in the public interest, irrational and without any reason and also introduced demand charges for the first time to this ferro alloys industry HT-I(B).

- iv. It is stated that in view of the above directions of the GoTS having appreciated the difficulties of ferro alloy units which are highly power intensive in nature decided to revive the FAMUs and provide suitable reliefs for their survival. Accordingly, TSDISCOMs have restored the power supply to FAMUs at the rate of Rs.5.00 per unit without any demand charges under the category of HT-I(B) - Power Intensive Category from 2017-18 to 2021-22 to the ferro alloy units.

2. In view of the facts and reasons stated above, the review petitioner has sought the following prayer in the review petition.

*“To review the tariff order dated 23.03.2022 passed O.P.Nos.58 & 59 of 2021.”*

3. The Commission has heard the counsel for the review petitioner and also considered the material available to it. The submissions made by the counsel for review petitioner on various dates are extracted for ready reference.

Record of proceedings dated 09.01.2023:

*“... .. The advocate representing the counsel for review petitioner sought to explain the matter. However, the Commission pointed out that the review petition is coming up for argument on the issue of maintainability. The advocate representing the counsel for review petitioner stated that he needs time to argue the matter on the lines as required by the Commission. In view of the request of the advocate representing the counsel for review petitioner, the matter is adjourned.”*

Record of proceedings dated 04.04.2023:

*“... .. The advocate representing the counsel for review petitioner sought adjournment. However, the Commission noticed that the review petitioner has to file the revised version of the review petition consequent upon allowing the application for amendment of the prayer in the filing. In view of the request of the advocate representing the counsel for review petitioner, the matter is adjourned.”*

Record of proceedings dated 10.04.2023:

*“... .. The advocate representing the counsel for review petitioner sought to state that the revised review petition is filed and the matter may be taken up for admission on the next date of hearing. The Commission observed that the revised version of petition is not in compliance of the Conduct of Business Regulation and as such, the counsel for petitioner is required to file the same properly in consultation with the office of the Commission. In view of the request for another date, the matter is adjourned.”*

Record of proceedings dated 24.04.2023:

*“... .. The advocate representing the counsel for review petitioner stated that the Commission is having power to undertake the review of the order passed by it under section 94 (1) of the Electricity Act, 2003. Such review can be undertaken insofar as powers exercisable under order XLVII Rule 1 of Civil Procedure Code, 1908. In this particular case, the fair review petition is filed and the points 2 and 3 of Rule 1 mentioned above are attracted. The Commission had already considered in the tariff order for FY 2012-13 that the consumers of this category cannot be merged into HT Industry 1-A and thus retained them as HT Industry 1-B. The tariff for HT 1-A is higher than HT 1-B and thus, the industry in this category cannot be merged being a power intensive industry. The Commission may review the tariff fixed for this category by taking the petition on the file of the Commission. Heard the counsel for petitioner and the matter is reserved for orders.”*

4. The Commission notices that the review petitioner has jumbled the issue by quoting the numbers relating to an order passed in the year 2002 by the erstwhile Andhra Pradesh Electricity Regulatory Commission (APERC) while referring to the order passed by the Commission on 23.03.2022. There is no nexus between both the references. While the order passed in 2002 was in respect of a modification to the tariff order on 26.10.2002 for the year 2002-03 in I.A.No.10 of 2002 in O.P.Nos.29-33 of 2002, the review petitioner sought review of the order dated 23.03.2022 passed in O.P.Nos.58 & 59 of 2021, which relates to the determination of retail supply tariff for FY 2022-23.

5. The review petitioner has stated that it had filed objections to the tariff proposals of the TSDISCOMs for FY 2022-23 in O.P.Nos.58 & 59 of 2021, but the contentions raised in the review petition do not advert to any irregularity or omission to consider any aspect of the matter. The review petitioner also stated that it had filed objections on 25.02.2022, when the hearing took place in respect of the subject matter, but as verified from the record of the Commission, it had filed only objections on 19.01.2022 and further submissions on 27.01.2022 only. Therefore, the statements appear to be made for the sake of review petition.

6. It is also noticed that the review petitioner placed reliance on paragraph 25 of the alleged representation dated 25.02.2022, when such objection is itself not on record, how and in what circumstances paragraph 25 would arise is not known. The review petitioner appears to be in a confused state of affair by clubbing the order dated 26.10.2002 and 23.03.2022.

7. The Commission would turn to the references made in the material placed before the Commission based on which the review is sought. Reference has been made to the tariff order of the erstwhile APERC on 20.03.2009 with regard to wheeling and retail supply tariff for FY 2009-10, retail supply tariff orders for FY 2010-11, FY 2011-12, FY 2012-13, 2013-14 passed on 22.07.2010, 30.03.2011, 30.03.2012 and 30.03.2013 respectively. All these orders have no bearing on the issue of undertaking review of the tariff order dated 23.03.2022. These orders are neither relevant and appropriate nor do they bind the Commission in any way.

8. The review petitioner sought to rely on the retail supply tariff orders for FY 2015-16, FY 2016-17, FY 2017-18, FY 2019-20 and FY 2021-22 passed by the present APERC on 23.03.2015, 31.03.2016, 31.03.2017, 22.02.2019 and 25.03.2021 respectively. All these orders are neither binding nor relevant for undertaking review of the tariff order passed by the Commission on 23.03.2022 for FY 2022-23. These orders are neither relevant and appropriate nor do they bind the Commission in any way.

9. Reference has been made to the orders passed by Gujarat Electricity Regulatory Commission, Madhya Pradesh Electricity Regulatory Commission, Punjab Electricity Regulatory Commission and West Bengal Electricity Regulatory Commission to contend that the respective Commissions have determined the tariff of Ferro Alloys Units, which is less than the tariff as determined by the Commission, therefore, the tariff order dated 23.03.2022 for FY 2022-23 is required to be reviewed. As stated earlier, none of these orders are neither relevant and appropriate nor do they bind the Commission in any way.

10. Reference has been made to the letter addressed by the Government of Telangana vide letter dated 04.09.2018 and proceedings issued by the TSSPDCL on 17.09.2018 as also 14.10.2021 in respect of specific companies. These aspects do

not have any bearing on the issue of undertaking review of the order of the Commission dated 23.03.2022 passed in respect of retail supply tariff for FY 2022-23.

11. The review petitioner sought to contend that the Ferro Alloys Units have been enjoying concessional power from the year 1975 onwards and that such concessional tariff has been continued by the erstwhile APERC and this Commission also, however, in the tariff order dated 23.03.2022, the tariff has been drastically revised and no reasons were afforded for such steep hike in the tariff for FY 2022-23. In fact, the Commission had approved the tariff as shown in the table below:

<b>HT-I(B): Ferro Alloys</b>			
<b>Category</b>	<b>Demand Charge* (Rs./month)</b>		<b>Energy Charge (Rs./kVAh)</b>
	<b>Unit</b>	<b>Rate</b>	
<b>HT-I(B): Ferro Alloys</b>			
11 kV	kVA	475	7.65
33 kV	kVA	475	7.15
132 kV and above	kVA	475	6.65
*Demand charge is calculated at Rs./kVA / month of the Billing Demand			

Nothing is contended as to the tariff aspect except stating that the Commission had fixed onerous tariff for FY 2022-23 contrary to the support given by the other states, whose orders have been referred to by the review petitioner. In fact, the Commission had considered the submissions of the review petitioner and the findings as arrived at are extracted below.

#### 6.12 HT-I(B): FERRO ALLOYS

##### DISCOMs proposals

6.12.1 The current and proposed tariffs by the DISCOMs is as shown in the Table below:

Table 6-21: Current and proposed Tariffs for HT-I(B) category

<b>Consumer Category</b>	<b>Current Tariffs</b>			<b>Proposed Tariffs</b>		
	<b>Demand Charge</b>		<b>Energy Charge</b>	<b>Demand Charge</b>		<b>Energy Charge</b>
	<b>Unit</b>	<b>Rs./Unit/ Month</b>	<b>Rs./kVAh</b>	<b>Unit</b>	<b>Rs./Unit/ Month</b>	<b>Rs./kVAh</b>
<b>HT-I(B): Ferro Alloys</b>						
11 kV	kVA		5.90	kVA	475	7.65
33 kV	kVA		5.50	kVA	475	7.15
132 kV and above	kVA		5.00	kVA	475	6.65

##### Commission's view

6.12.2 The current tariff structure of HT-I(B) category comprises of only Energy Charge with the obligation to pay charges for the guaranteed offtake of 6701 kVAh per kVA per annum on Average Contracted Maximum Demand or Average Actual Demand, whichever is higher. The stakeholders have opposed the tariffs proposed by the DISCOMs.

6.12.3 From the past experience, the Commission finds that many litigations have been raised by the ferro alloy units before various fora including the Commission wherein such litigations have predominantly hinged on the billing of guaranteed offtake as stipulated in the Tariff Orders. The Commission finds it prudent to dispense with the current tariff structure and determine the tariffs for HT-I(B) category on similar lines of HT-I(A) category in the interest of all the stakeholders.

6.12.4 The tariffs for HT-I(B) category determined by the Commission for FY 2022-23 is as shown in the Table below:

Table 6-22: Commission determined tariffs for HT-I(B) category

Consumer Category	Category Commission determined Tariffs		Energy Charge (Rs./kVAh)
	Demand Charge		
	Unit	Rate	Rs./kVAh
<b>HT-I(B): Ferro Alloys</b>			
11 kV	kVA	475	7.65
33 kV	kVA	475	7.15
132 kV and above	kVA	475	6.65

12. At paragraph – 5 of the review petition, a reference has been made to certain submissions alleged to have been made by it on the requirement of concessional tariff. From the record available before the Commission, either in the review petition or the original proceedings for determination of tariff for FY 2022-23, none of these contentions find place in the tariff order in the same fashion, though, most of the averments have been captured by the Commission while recording the objections. Having considered the submissions made by the review petitioner in the original petition, if no finding or any adverse finding is given, it is trite in law that the contentions are refused or rejected. That being the case, the same contentions cannot be further prosecuted by the review petitioner in the review petition.

13. Be that as it may, it is appropriate to state that the Commission was undertaking retail supply tariff determination in the original proceedings on the proposals made by the licensees of the Commission that is required to be charged by them for the power supply made by them to the end consumers. In perspective, the Commission is required to consider as to whether the licensees are able to recover the costs and reasonable return on the investment for the power supply being undertaken by them to the end consumers. In that circumstances, the Commission had done the prudent check of the revenue of the licensees and arrived at retail supply tariff for each category of the consumers. Thus, the review petitioner had not shown any infirmity

except comparing the tariffs with other states and its earlier benefits, which cannot bind the Commission in this exercise.

14. It is also appropriate to state that the review petitioner has nowhere shown as to whether the order passed by the Commission suffers from the ingredients of review, namely, arithmetical mistakes, non-consideration of material fact or that a new and appropriate evidence has been placed, which was not in the possession of the review petitioner despite due diligence while contesting the original proceedings.

15. For the above reasons and discussion, the Commission finds no merits in the review petition so as to undertake a review of the order passed by the Commission. Accordingly, the review petition stands rejected at the admission stage.

**This order is corrected and signed on this the 9<sup>th</sup> day of October, 2023.**

<b>Sd/-</b> (BANDARU KRISHNAIAH) MEMBER	<b>Sd/-</b> (M. D. MANOHAR RAJU) MEMBER	<b>Sd/-</b> (T. SRIRANGA RAO) CHAIRMAN
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