



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

R. P. No. 1 of 2016
in
O. P. No. 11 of 2015

Dated 27.11.2017

Present

Sri. Ismail Ali Khan, Chairman
Sri. H. Srinivasulu, Member

Between:

M/s. SLT Power & Infrastructure Projects Private Limited,
Flat No. 501, Soundarya Residency, Street No. 8,
Himayatnagar, Hyderabad – 500 028.

... Petitioner

And

1. The Government of Telangana, Energy Department,
Secretariat, Hyderabad – 500 022.
2. The Transmission Corporation of Telangana Limited,
Vidyut Soudha, Khairathabad, Hyderabad – 500 049.
3. The Southern Power Distribution Company of Telangana Limited,
6-1-50, Mint Compound, Hyderabad – 500 063.
4. The Non-Conventional Energy Development Corporation of
Andhra Pradesh Limited (NEDCAP), 5 / 8-207 / 2,
Paigah Complex, Nampally, Hyderabad – 500 001.

... Respondents.

This petition came up for hearing on 15.06.2016, 04.07.2016, 20.06.2017 and 13.11.2017. There is no representation for the petitioner on 15.06.2016 and 20.06.2017 and Sri. G. Vijaya Bhaskar Reddy, Managing Director representing the petition present on 04.07.2016 and 13.11.2017. Sri. Y. Rama Rao, standing counsel for the respondents alongwith Smt. Priya Iyengar, Advocate present on 15.06.2016, Smt. Priya Iyengar, Advocate representing Sri Y. Rama Rao, standing counsel for the respondents present on 04.07.2016, Sri. Y. Rama Rao, standing counsel for the

respondents alongwith Sri. B. Vijaya Bhaskar, Advocate present on 20.06.2017 and Sri. Y. Rama Rao, standing counsel for the respondents alongwith Sri Sai Vihari and Ms. Pravalika, Advocates present on 13.11.2017. The petition having stood for consideration to this day, the Commission passed the following:

ORDER

The petitioner had filed the petition under section 94 (1) (f) of the Electricity Act, 2003 seeking the following prayer.

“To review the Commission order dated 17.01.2016 in O. P. No. 11 of 2015 by
(a) fixing the fixed charges for the 9th year of operation until 16.12.2016;
(b) applying the revised variable charges fixed by the Commission vide its order dated 16.07.2015 for FY 2015-16; and
(c) by entitling the applicant to the modified variable charges as may be fixed by the Commission for the FY 2016-17.”

2. In support of the above prayer, the review petitioner stated as follows:-
 - a) that the Commission while determining the fixed charges applicable to its power plant for the 9th year of operation as per the power purchase agreement (PPA) dated 02.02.2007 was pleased to fix Rs. 1.26 paise per unit for FY 2015-16. This would mean that the said rate of Rs. 1.26 paise would be applicable until 31.03.2016 and thereafter the fixed charge of Rs. 0.87 paise would be applicable from 01.04.2016 onwards. It is stated that according to the PPA dated 02.02.2007, the agreement shall be in force for a period of twenty years from the date of commencement of commercial operations. It is stated that its commercial operation date is 17.12.2007 and therefore, the operations are deemed to have commenced on 17.12.2007. Based on the said commercial operations date, the 9th year of the operation of the appellant begins on 17.12.2015 and ends on 16.12.2016. Therefore, it is stated that the said price of Rs. 1.26 as determined by the Commission would be applicable until 16.12.2016 and the price of Rs. 0.87 paise would be applicable thereafter for the 10th year of operation.
 - b) that the Commission has fixed the variable charges for FY 2015-16 and 2016-17 based on the APERC order dated 16.05.2014. It is stated that, as per the APERC order dated 16.05.2014, the variable cost is indicative in

nature and the actual fuel price escalation would be determined by the Commission before the start of each financial year starting from FY 2015-16. In this case, it is stated that, for the FY 2015-16, the Commission has passed orders on 16.07.2015 fixing the variable cost for FY 2015-16 at Rs. 4.60 paise, which is 6 paise more than the tariff fixed in the orders of the Commission dated 27.01.2016. Even for FY 2016-17, the variable charges portion of the tariff will be subject to final determination by the Commission in its order for the said year. Therefore, the review petitioner would be entitled to the variable charges as may be fixed by the Commission for FY 2016-17 also.

- c) that Section 94 of the Act, 2003 empowers the Commission to exercise the same powers as are vested in a civil court for the purposes of conducting any enquiry or proceedings under the Act, 2003, which also includes the power to review its decisions, directions and orders. It is stated that Order 47, Rule 1 of Code of Civil Procedure, 1908 inter alia provides that any person, considering himself aggrieved by any decree or order, from which no appeal has been preferred, may apply for the review of the judgment to the court which passed the decree or made the order if there is a mistake or error appear on the face of the record.
- d) that the grounds referred to in paragraphs (a) and (b) above are errors, which are apparent on the face of the record and which can be addressed by the Commission by exercising its wide powers conferred to it under Sec 94 of the Act, 2003. It is stated that the review petitioner is in the process of reviving the power plant and if the fixed and variable charges as prescribed by the Commission are not modified to the extent mentioned above, the review petitioner will suffer irreparable loss and injury.

3. We have taken the petition on the file of the Commission and issued notice to the parties. On the first date of hearing, there was no representation on behalf of the petitioner, on the other hand, the counsel for the respondents reported about non-receipt of notice in the matter. Hence, the matter was adjourned.

4. On the next date of hearing, the advocate representing the counsel for respondents sought adjournment, due to non-receipt of notice in the matter. The representative of the petitioner, who appeared on this day, made a request for adjournment of the matter, as his counsel was not available for submissions. The Commission while seeking to know as to what is the anomaly in the order passed by it requiring the petitioner to seek the review of the order. It also sought to know whether the petitioner is operating the plant. As no reply was forthcoming from the petitioner's representative, it directed the representative to inform the Commission about running of the plant, then the petition will be taken up for hearing.

5. The Commission while overseeing the pendency of several petitions directed listing of this review petition also. On the said date of hearing, there was no representation of the petitioner. Therefore, the matter was adjourned without any date.

6. Again the pending matters were reviewed by the Commission and this petition was directed to be listed on the last date of hearing. The representative of the petitioner appeared and submitted that the arrangements relating to debt re-scheduling have not been completed and the loan waiver has not been considered by the bankers. There is a delay on the part of the bankers. The Telangana Industrial Infrastructure Corporation is levying interest at 13.5% compared to the scheduled banks charging @ 12.5% as interest.

7. It is also stated by the representative of the petitioner that the Commission had allowed variable tariff from first year of operation whereas it should be from the date of COD. To a pertinent question, the representative of the petitioner did not make it clear whether the unit will be functional in near future. We had observed that the tariff was construed and determined liberally as the project is renewable energy industrial waste based project.

8. It is our view that the tariff had already been determined by the Commission and the unit is yet to be revived by the petitioner, therefore, no purpose will be served in undertaking the review of the original order at this point of time. The representative of the petitioner was given sufficient time to place before us the factum of revival of the unit, which has not happened so far. Therefore, we are not inclined to proceed

further and deem it fit that the review lacks merit. Accordingly, the review petition is liable to be rejected.

9. The review petition is, accordingly, rejected with no order as to costs. However, this dismissal would not preclude the petitioner from approaching the Commission afresh seeking suitable directions at an appropriate time by clearly demonstrating that the unit has been completely revived.

This order is corrected and signed on this the 27th day of November, 2017.

**Sd/-
(H. SRINIVASULU)
MEMBER**

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

//CERTIFIED COPY//