

Record of Proceedings dated 28.08.2020

R. P. No. (SR) No. 20 of 2020

in

O. P. No. 14 of 2020

TSDISCOMs Vs. – Nil-

Review petition filed Seeking review of the order dated 18.04.2020 determining the generic tariff for the RDF projects.

Sri. Y. Rama Rao, Advocate for the review petitioners along with Sri. K. Sathish Kumar, DE (RAC) TSSPDCL and Sri. K. Vijay Kumar, DE (RAC) TSTRANSCO have appeared through video conference. The counsel for the review petitioners stated that the review petition is filed to raise certain aspects of the tariff determined by the Commission without considering the submissions of the petitioners. The counsel for the petitioners has laid thrust on the contentions raised in the review petition itself, more particularly on the following aspects – (i) Return on Enquiry, (ii) Interest on Term Loan, (iii) Interest on Working Capital, (iv) Discount Rate, (v) Fuel Cost Escalation and (vi) Tipping Fee. The counsel for the petitioners submitted that the Commission had notified certain parameters at a lessor rate but concluded at a higher rate, which may be a burden to the petitioners and they have no other way except pass on the same to the end consumers. Any percentage fixed higher than the draft notification would entail additional expenditure to the petitioners while discharging the functions under the Electricity Act, 2003. The Commission directed purchase of the RDF based power which in fact is must run and must be procured energy as per tariff policy.

The counsel for the petitioners strenuously pointed out that certain submissions which were made by the petitioners were considered, but to the detriment of them and few others have not at all been considered. These aspects would have commercial impact on the petitioners. It is also his case that interest rates have not been taken into account in accordance with the notifications of the financial institutions including SBI.

The counsel for the petitioners stated that the review petition is maintainable under section 94 (1) (f) of the Act, 2003 duly applying the principles of review under the Code of Civil Procedure, 1908. Undertaking the review of the order includes tariff

order also and the Commission is empowered to take a view both on procedural and also substantial issues. He sought the admission of the review petition and issuance of notice to the objectors so that a comprehensive hearing on the issues raised by the review petitioners can take place.

The Commission pointed out that all the material aspects with regard to the issues raised by the review petitioners have been considered while passing the order and also took into consideration the orders passed by several other coordinate Commissions. The reasons meted for several parameters according to the Commission are substantial and elaborate. However, it will now take into consideration all the submissions and will decide the admissibility of the petition. The counsel for the petitioners sought to place before the Commission the order passed by the Hon'ble Supreme Court on 23.03.2020 regarding maintainability of the petition even if there is delay in filing the review petition due to pandemic situation. He also relied on a judgment in the matter of M/s. Reliance Infrastructure Limited against Maharashtra Electricity Regulatory Commission about the determination of tariff for MSW projects. He sought to stress that the Commission is required to consider section 61 (a), (b) and (d) of the Act, 2003 while undertaking the determination of tariff.

Having heard the detailed submissions of the counsel for the review petitioners, the matter is reserved for orders.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman