



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

R. P. No. 1 of 2021
in
O. P. No. 27 of 2020

Dated 23.08.2021

Present

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

Between:

M/s L&T Metro Rail (Hyderabad) Limited,
Uppal Main Road, Nagole, Hyderabad. ... Review petitioner/Petitioner

AND

Southern Power Distribution Company of Telangana Limited,
Corporate Office, # 6-1-50, Mint Compound,
Hyderabad – 500 063. ... Respondent/Respondent

The review petition came up for hearing on 29.07.2021 in respect of maintainability of the review petition. Sri Avinash Desai, Advocate for review petitioner has appeared through video conference on 29.07.2021. The matter having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

The review petitioner has filed the petition under section 94 (1) (f) of the Electricity Act, 2003 (Act, 2003) read with clause 32 of the Conduct of Business Regulations, 2015 seeking review of the order dated 19.10.2020 in O. P. No. 27 of 2020 passed by the Commission. The averments of the petition are as below.

(a) It is stated that the instant review petition is filed seeking a review of the

order dated 19.10.2020 passed by the Commission in the original petition filed by the petitioner wherein it had challenged the actions of the respondent in not acting in accordance with the directions of the Commission providing certain relaxations for mitigating the impact of COVID-19 vide order dated 29.04.2020 in O.P.No.17 of 2020 and order dated 13.05.2020 in R.P.(SR) No.13 of 2020 in O.P.No.17 of 2020 and seeking issuance of direction to the respondent to collect electricity charges with derated CMD(s) for the lockdown period with effect from 22.03.2020.

(b) It is stated that that the petitioner in the original petition had challenged the actions of the respondent in not complying with the orders passed by the Commission, wherein it had relaxed the provisions of the General Terms and Conditions of Supply (GTCS) and Schedule I of Regulation No. 5 of 2016 (Licensees Standards of Performance) (SOP Regulations) for the lockdown period vide order dated 19.04.2020 in O. P. No. 17 of 2020 (Suo Moto). The Commission vide its Suo Moto order permitted consumers to exercise clause 5.9.4.2 of GTCS to avail deration irrespective of the criteria of completion of the minimum period of agreement as stipulated in GTCS and directed distribution licensees to give effect to the request or the consumer for deration within five days from the date of receipt of the application.

(c) It is stated that despite the request made by the petitioner, the respondent issued electricity bills to the petitioner without derating the CMD for its connections. Thereafter, once the review petition filed by the respondent challenging the Suo Moto order was dismissed, the respondent accorded approval for deration of CMDs in violation of the Commission's orders as it directed the petitioner to approach the Superintendent Engineer for execution of amendment agreement with derated CMDs and that deration shall be 'given effect to within 5 (five) days or from the date of the revised agreement, whichever was later.

(d) It is stated that the act of respondent in failing to respond to the petitioner within a period of 5 (five) days from the receipt of its request and instead insisting that the petitioner should enter into another agreement for deration of CMDs is unfair, arbitrary and contrary to the orders by the Commission in O. P. No. 17 of 2020 and the review petition.

(e) It is stated that the Commission, in its order dated 19.10.2020 in the original

petition, had framed two issues for consideration:

- i) the interpretation of the application of the Suo Moto order passed by the Commission on 29.04.2020; and
- ii) the consequences of the review order dated 13.05.2020.

(f) It is stated that the order of the Commission notes that the Commission found the normal period of eligibility to apply for deration and the time given to the licensee to apply for deration as creating an oppressive situation and therefore allowed relaxation of the deration conditions by enabling the consumers to reduce their CMD immediately without waiting for the timelines stipulated in clause 5.9.4.2 of the GTCS and the SOP Regulations. The Commission notes that the licensee was required to give effect to such relaxation by entering into an agreement within the 5 days timeline from the date of the application made by the consumer.

(g) It is stated that the Commission thereafter notes that although the petitioner sought deration, the licensee did not effect the deration within the 5 days timeline stipulated by the Commission and did not comply with the Suo Moto order as it failed to enter into an agreement for effecting deration within the 5 days timeline. The Commission further dismissed the argument advanced by the respondent that the reason for non-implementation of the Suo Moto order was the pendency of the review petition filed by the licensee and noted that the licensee was not empowered to ignore the binding orders of the Commission. The Commission, thereafter, clarified that the Suo Moto order applies only prospectively that is with effect from 29.04.2020. Therefore, by way of the order, the Commission held that the licensee ought to have entered into an agreement within 5 days of the request made by the petitioner and grant deration with effect from 29.04.2020.

(h) It is stated that however, in contravention of the above observations made by the Commission, the order then records, "*For the foregoing reasons, observations and discussion, the petition is dismissed without any costs. As the main petition is disposed of, the interlocutory application stands closed.*" It is stated that the dismissal of the petition is at odds with the holding of the Commission in its order that the licensee contravened the Suo Moto order by refusing to enter into an agreement within 5 days from the request made by the consumer that is the petitioner and that the licensee is required to effect

deration within the timeline stipulated by the Commission in its Suo Moto order. Therefore, there appears to be a typographical error as the petition was dismissed instead of being disposed of in accordance with the Commission's observations.

(i) It is stated that since the petitioner was of the view that the deration of CMDs had to be done for the entire lockdown period that is from 22.03.2020, it had not entered into the agreement as it had requested the respondent to sign the agreement which allowed deration for the entire lockdown period. The petitioner reserves its right to claim that deration should be for the entire lockdown period. It is stated that as the Commission noted that the Suo Moto order applies prospectively and that the Suo Moto order was binding upon the licensees to enter into an agreement within 5 days of the application, the respondent accordingly ought to be directed to enter into the agreement and grant deration with effect from the date of Suo Moto order that is 29.04.2020.

(j) It is stated that as such, there appears to be a typographical error wherein the order records that the petition is dismissed, instead of disposing of it in view of the above observations that is wherein the licensee was required to give effect to the deration request of the consumer by entering into an agreement within 5 days from the deration request made by the petitioner.

(k) It is stated that the Hon'ble Appellate Tribunal for Electricity, in *Ajmer Vidyut Vitran Nigam Limited V. Rajasthan State Electricity Regulatory Commission and Ors.* (R. P. No. 12 of 2012 in Appeal No. 17 of 2012) while considering the ratio decided by the Hon'ble Supreme Court regarding the exercise of the power of review, culled out the following guidelines:

"The parameters are prescribed in order 47 Rule 1 C.P.C. It permits the party to press for a re-hearing on account of some mistake or error apparent on the face of the record or for any other sufficient reason. The former part of the rule deals with a situation attributable to the applicant and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible."

(l) It is stated that under section 94 (1) (f) of the Act, 2003, this Commission has been vested with the power of *reviewing* its decisions/orders and has the same powers as are vested in a Civil Court under Code of Civil Procedure, 1908. As the present review petition seeks a review of the order on the ground of a

typographical error apparent on the face of the record, it satisfies the principles of Order XL Rule I of the CPC.

(m) It is stated that the present petition is made bona fide and in the interests of justice. For the above reasons and for such other reasons as may be raised in the course of the proceedings, it is prayed that the Commission may be pleased to review of the order passed by this Commission on 19.10.2020 in O. P. No. 27 of 2020.

2. The review petitioner has sought the following prayer in the petition.

"In these circumstances and for the facts and reasons stated above, it is therefore prayed the Commission to review the order dated 19.10.2020 passed by this Commission in O. P. No. 27 of 2020 by correcting the inadvertent typographical error in the said order."

3. Having heard the arguments of the counsel for the review petitioner. Is there a case for review the order of the Commission?

4. The counsel for the review petitioner stated on the date of hearing as below:

"... ..The counsel for review petitioner stated that the Commission dismissed the original petition while observing about actions and inactions of the licensee in giving effect to the order of the Commission. He pointed out that several observations went against the licensee in the matter of extending the benefit of deration of maximum demand as sought by the petitioner within such time of the Commission's order. The Commission ought to have disposed of the matter, instead dismissed the petition. Therefore, the present review petition is filed seeking review of the order."

5. The commission is of the view that the original petition was disposed as 'dismissed' for the reason that the prayer sought in the original petition ipso facto was not allowed. However, the entire factual matrix was culled as to the action or inaction of the licensee. In view of the present submission of the counsel for the review petitioner, the Commission deem it appropriate to admit the review petition to the limited extent of replacing the word 'dismissed' occurring in the paragraph 19 of the original with word 'disposed of'.

6. Subject to the observation made above, the review petition stands admitted to the limited extent and disposed of. Office to number the review petition before issuing the same to the parties.

This order is corrected and signed on this the 23rd day of August, 2021.

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