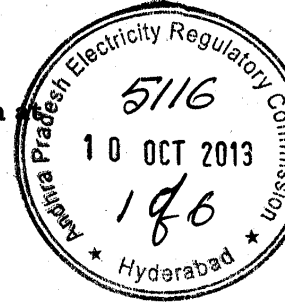


Before the A.P. Electricity Regulatory Commission
Hyderabad.



R.P.No. 5 of 2013.
in

Order Dated 08-08-2013 (Submitted)

In the matter of recall of the Order Dated 08-08-2013 of APERC on 50% waiver of penal charges levied as per the Restriction & Control (R&C) measures.

Between

A.P. Central Power Distribution Company Limited.,
A.P. Eastern Power Distribution Company Limited.,
A.P. Northern Power Distribution Company Limited.,
A.P. Southern Power Distribution Company Limited.,

..... Petitioner,

And

Nil

Petition under Regulation 18 read with Regulations 49, 55(2) & 55(3) of A.P.E.R.C (Conduct of Business) Regulations 1999.

- 1) The petitioners A.P. Discoms submit that the Hon'ble Commission passed an Order Dt: 08-08-2013 on 50% waiver of penal charges levied as per the Restriction & Control (R&C) measures and the summary of conclusions recorded at para 49 & 50 reads as

Para 49: *"Considering the circumstances in which the whole process of introduction of R&C measures, failure to strict inspection, monitoring and enforcement by way of disconnection and serving notices by DISCOMs, erroneous interpretation and prolonged delays in levy of penalties its excessive financial burden on consumers, the Commission has decided to waive penalties to the extent of 50% specified in the R&C orders"*

Para 50: *"Accordingly, the Commission hereby waives 50% of penal charges for all consumers for whom R&C measures were made applicable vide Order Dt: 07-09-2012 and all orders issued from time to time including the last Order Dt: 17-04-2013."*

- 2) The petitioners submit that the view of the Hon'ble Commission at para 18 of the Order Dt: 08-08-2013 that the DISCOMs have never implemented the disconnection provision stipulated in the R&C order for violation of R&C measures and had the DISCOMs exercised the disconnection of power, the Consumers would not have drawn much power, has no basis. In fact, many consumers have repeatedly requested the DISCOMs not to disconnect the services, as penal charges will however be levied for excess drawals.
- 3) The petitioners submit that the Hon'ble Commission at para 20 of the Order Dt: 08-08-2013 without basis held that the DISCOMs have not given the three types of options under which the consumers can avail supply depending on their requirement and the DISCOMs have unilaterally decided the option of giving supply on their own. In fact there is no basis for such finding. The DISCOMs have given the three options and the same were availed by the consumers of all the DISCOMs who have given application in writing to the DISCOMs. Further, the instances of any consumer deprived off the above options have not come to the notice of the DISCOMs.
- 4) Further, on the aspect of representation of the consumers before APERC that there is no effective and immediate communication on the orders of R&C measures to the consumers, the petitioners submit that soon after the issue of the R&C orders, the same were intimated well in advance to all the consumers by the DISCOMs duly informing them by hosting information in the websites of DISCOMs besides the information in press about R&C orders along with Permitted Demand Limits, Permitted Consumption Limits & penal charges for exceeding their permissible limits during the R&C period.
- 5) The petitioners submit that the DISCOMs have made allout efforts to ensure that the consumers do not draw any excess power / energy beyond their permissible limits. Had the consumers restricted their usage to the permissible limits stipulated in the R&C order, the DISCOMs would not have resorted to levy of penal charges or disconnection of service.

- 6) The petitioners submit that the delay in levying of penal charges to the consumers who violated R&C measures is only due to the various operational & technical constraints viz variation in Demand & Consumption limits to different consumers and also due to issue of various R&C orders from time to time, downloading & analyzing MRI data, etc. Due to delay in billing, there is a financial loss to DISCOMs only and not to the consumers who violated R&C measures.
- 7) The petitioners submit that under para 31 of the Order Dt: 08-08-2013, the Hon'ble Commission itself has stated that "*Commission has jurisdiction to levy penalty under Section 23 read with 86(f) of Electricity Act, 2003. Commission has also power to waive the penalty*", but failed to follow the procedure contemplated to pass order under 86 (1) (f) of Electricity Act, 2003.
- 8) The Hon'ble Commission was swayed away by the alleged representations of unspecified persons on an unspecified date, without asking remarks from the DISCOMs on the alleged grievances. The Order Dt: 08-08-2013 suffers with violation of principles of natural justice for the reasons that no notice is issued to DISCOMs although the Order Dt: 08-08-2013 is casting remarks on the DISCOMs of not following the procedure and the order is to the disadvantage of the DISCOMs and that their civil rights are affected.
- 9) The Hon'ble Commission has powers to recall of the orders that are passed *exparte*. The Order Dt: 08-08-2013 did not take into consideration of the findings of Hon'ble High Court of A.P., given in the Judgment Dt: 19-11-2012 in W.P. No. 29621 of 2012 and other grounds, wherein the Hon'ble High Court did not accept the claim of petitioner to reduce penalty of only three times of tariff.
- 10) The Hon'ble Commission has powers to recall of the orders passed by it under Regulation 18 read with Regulations 55(2) & 55(3) of A.P.E.R.C (Conduct of Business) Regulations 1999, as the DISCOMs were not given an opportunity to submit their views in this regard. This is a case where the Hon'ble Commission ought to have taken decision after hearing the parties. Therefore this is fit case to exercise inherent powers vested with Hon'ble Commission to meet the ends of Justice.
- 11) The requisite court fee is paid. Other grounds will be urged during the course of arguments. This petition is within limitation as per Regulation 49 of A.P.E.R.C (Conduct of Business) Regulations.

12) It is prayed that the Hon'ble Commission may be pleased

- a. To take this recall petition on record.
- b. To recall the Order Dt: 08-08-2013.
- c. To pass such order which deems fit and proper in the circumstances of the case.

Petitioner No. 1

Chief General Manager, Commercial
6-1-50, APCPDCL, Corporate Office,
Mint Compound, Hyderabad-500 083.

Petitioner No. 2

Chief General Manager, Commercial
6-1-50, APCPDCL, Corporate Office,
Mint Compound, Hyderabad-500 083.

Petitioner No. 3

Chief General Manager, Commercial
6-1-50, APCPDCL, Corporate Office,
Mint Compound, Hyderabad-500 083.

Petitioner No. 4

Chief General Manager, Commercial
6-1-50, APCPDCL, Corporate Office,
Mint Compound, Hyderabad-500 083.

BEFORE THE HONOURABLE ANDHRA PRADESH ELECTRICITY
REGULATORY COMMISSION

AT ITS OFFICE AT 5th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004

FILING NO. ____/2013

CASE NO. ____/2013

In the matter of recall of the Order Dated 08-08-2013 of APERC on 50% waiver of penal charges levied as per the Restriction & Control (R&C) measures.

In the matter of:

CENTRAL POWER DISTRIBUTION COMPANY OF ANDHRA PRADESH LIMITED

... Applicant

AFFIDAVIT OF APPLICANT VERIFYING THE APPLICATION ACCOMPANYING
FILING OF PETITION.

1. I, K. Sai Baba S/o Late Sri K. Swamy aged 48 years, Occupation: Chief General Manager (Commercial & RAC), APCPDCL, Hyderabad, R/o Hyderabad do solemnly affirm and say as follows:
2. I am Chief General Manager (Commercial)/APCPDCL, I am competent and duly authorized by APCPDCL to affirm, swear, execute and file this petition.
3. I submit that I have read and understood the contents of the appended Application of APCPDCL. The facts stated in the application are true to the best of my knowledge, which are derived from the official records made available.


DEPONENT

Chief General Manager, Commercial
6-1-50, APCPDCL, Corporate Office,
Mint Compound, Hyderabad-500 003.

VERIFICATION:

The above named Deponent solemnly affirm at Hyderabad on this ____ day of October, 2013 that the contents of the above Affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.


DEPONENT

Chief General Manager, Commercial
6-1-50, APCPDCL, Corporate Office,
Mint Compound, Hyderabad-500 003.

Solemnly affirmed and signed before me


COMPANY SECRETARY
APCPDCL, Corporate Office
Mint Compound, Hyderabad-500 003.