



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th & 5th Floors, Singareni Bhavan, Red Hills, Hyderabad 500 004

O.P. No.78 of 2012

Dated 22.02.2013

Sri A.Raghotham Rao, Chairman
Sri C.R.Sekhar Reddy, Member
Sri R.Ashoka Chari, Member

Between:

M/s Ocean Park Multitech Limited

... Petitioner

AND

Central Power Distribution Company of A.P. Ltd.

...Respondent

This petition has come up for hearing on 02.02.2013 in the presence of Sri Peri Prabhakar, Advocate for the petitioner and Sri Praveen Kumar Reddy, SE/ LMRC/ APCPDCL for the respondent, the Commission passed the following:

ORDER

Representation is taken up as per directions of the Hon'ble High Court in W.P. No.30678 of 2012.

2. The averments of the petition are briefly shown hereunder.

- i) The petitioner company is a Public Limited Company registered with the Registrar of Companies in the year 1995 having established with the objects of unique entertainment first of its kind in the Country. The petitioner company has participated in a tender of the Tourism Department of Government of Andhra Pradesh and thereafter has established project M/s Snow World, a snow project, wherein snow is required to be maintained 24 hours at 'minus 10 degree centigrade'. It is submitted that the amount of snow / ice which is required to be maintained in the premises is about 250 tons for the purpose of

effectively entertaining the people. The theme project is established as a public private participation project wherein all days and throughout the years the snow is maintained inside the auditorium to enable the tourists / visitors to enjoy the atmosphere and also to participate in ice sports, events etc., thus electric power supply is the most important factor in our business and as such, our process can be equated to a continuous process and without power, the question of being able to survive does not arise as maintaining the temperature of 'minus 10 degree centigrade' and also maintaining the quantity of ice as required would be impossible if power is to be supplied by generating the same through private generators.

- ii) While so, the Commission has issued the proceedings No. APERC / Secy / 13 / 2012-13, dt. 07.09.2012, restricting the use of power supply by various categories of customers subsequently, the same has been revised and 'Revised Order on Control Measures' is issued on 20.09.2012 vide proceedings No. APERC / Secy / 14 / 2012-13, whereby the customer have been classified into categories such as HT-I continuous process industries, HT-I other than continuous process industries, HT-II, LT-IIIB, LT-IIIA, LT-II(c) etc. It is now proposed to permit industries which have a continuous process to be categorized as HT-I continuous process industry after obtaining the prior approval from the respective CMD of the DISCOM. Apart from that certain industries have been excluded from the restriction and control measures, which are mentioned in paragraph of the said proceeding wherein at category (f) Dairies and Milk chilling plants, Feed mixing plants, cold storage plants are excluded from the restriction and control measures. It is submitted that the industry is also a recognized project by the Ministry of Tourism and requires a continuous supply of electricity to maintain the required temperature i.e., 'minus 10 degree centigrade', falling which it would be impossible to run the unit in discontinuity in power supply would result to melt down of the ice, which would again take several days for formation and the cost of production is very high.

- iii) When exclusion is granted to the other similar industries, such as Dairies and Milk chilling plants, feed mixing plants, cold storage plants etc., the Commission ought to have granted exemption to the petitioner also. Thus the petitioner is now making representation to cure the anomaly and with a request to include their company also in the excluded category as their industry also falls under the same category, failing which they will suffer irreparable loss and hardship and their company would have to be closed down resulting in loss of income to the State as well as loss of employment of 200 employees. It is relevant to mention here that their unit is functioning as a Public Private Participation project registered with the Ministry of Tourism by heavy lease rentals to the Tourism Department and also 5% of the turnover to the Tourism Department.
- iv) There is no other unit of a similar nature in the entire Andhra Pradesh or anywhere in India, catering to the needs of the tourists, children etc., in such a fashion and as such there is every requirement of preserving / encouraging such unit catering the needs of the tourists, children giving them a unique experience of experiencing snow in all seasons throughout the year.
- v) Hence it is requested to include our unit in the list of excluded categories of restriction and control measures.

3. The reply of the respondent is in brief as follows:

- i) M/s Ocean Park Multitech Limited is having 1 No. HT Category-I Service by name Maya Bazar.
- ii) Due to the shortage of power, the distribution licensees submitted proposal to Commission with a request to permit to impose the restriction on usage of power.
- iii) After careful consideration of the request proposal the Commission issued R&C order vide proceeding No.14 dt. 14.09.2012 in the said proceedings, certain categories of industries are exempted from the imposition of R&C measures.

- iv) As per the clause No.16 of GTCC, CPDCL can impose required restriction and control on usage of power by the consumers after obtaining permission from the Statutory Authority.
- v) As per the Clause No.23 of I.E. Act, the Commission can order for regulating the supply by imposing restrictions on usage of supply by consumers.
- vi) As per the proceeding No.14 dt. 14.09.2012 the consumer was informed to restrict the load as follows.

PDL during Off Peak	60% of CMD
PDL during Peak	30% of CMD
- vii) The consumer is requesting for the exemption of their service from R&C duly including them in the list of consumer exempted from R&C by Commission.
- viii) CPDCL is having no jurisdiction for exempting this service from R&C and accordingly the consumer was informed to implement R&C.
- ix) Thus, it is submitted for consideration of Commission for exemption of R&C for the consumer.

4. The learned advocate for the petitioner argued vehemently and projected the following grounds:

- (i) The petitioner is an established project unit and snow is required to be maintained 24 hours at minus 10 degrees. It is required to maintain in the premises is about 250 tons for the purpose of effectively entertaining the people.
- (ii) The Commission has issued proceedings dt.07.09.2012 restricting the use of power supply by various categories and the same is revised on 20.09.2012. The Commission has excluded certain industries from the Restriction & Control measures which are mentioned in para (f) of the said proceedings i.e., Dairies, Milk chilling plants, Feed Mixing plants, cold storage plants.

- (iii) The industry of the petitioner is a recognised project by the Ministry of Tourism and requires continuous supply of electricity to maintain required temperature.
- (iv) If exclusion is not granted similar to the other industries like Dairies, etc., the unit has to be closed down.
- (v) There is no other unit of similar nature in the entire A.P. or anywhere in India catering the needs of the Tourists, children, etc.,
- (vi) Hence, it is requested to include in the excluded categories of R&C measures.

5. The Superintending Engineer on behalf of the respondent has submitted that as per clause 16 of GTCS, APCPDCL can impose required restriction and control on usage of power by the consumers after obtaining permission from statutory authority. It is stated by him that the Commission has got power to regulate the supply by imposing restrictions on usage of supply by consumers. Hence, it is requested for the Commission to take a decision.

6. Now, the point for consideration is, whether the petitioner is entitled for inclusion in the exempted category on par with Dairies and Milk chilling plants, etc., as prayed for?

7. It is an admitted fact that unit of the petitioner is a unit recognised by the Ministry of Tourism. It is also an admitted fact that the Commission has issued R&C measures on 14.09.2012 and under clause 13 (f) thereof, Dairies and Milk chilling plants, Feed Mixing plants, cold storage plants are excluded from R&C measures.

8. The petitioner has filed W.P. No.30678/2012 for mandamus to set aside the proceedings of the Commission dt.14.09.2012. In the said petition, the Hon'ble High Court has held that

“At the hearing, Sri Vedula Venkata Ramana, learned Senior Counsel for the petitioner-Company, stated that even though his client has raised larger issues, for the time being it will be satisfied, if respondent No.3 is directed to dispose of its representation, dated 24.09.2012, for treating it as an exempted category on par with the other Cold Storage Units in the State of Andhra Pradesh.

As I find this request reasonable, the writ petition is disposed of with a direction to respondent No.3 to dispose of the petitioner's representation, dated 24.09.2012, after giving a reasonable opportunity of being heard to the petitioner and respondent No.2, within a period of two weeks from the date of receipt of a copy of this order.

As a sequel to disposal of the writ petition, W.P. M.P. Nos.39129 and 39130 of 2012 are disposed of as infructuous."

9. After disposal of the writ petition, the Commission has taken into account the representation made by the petitioner. The grounds mentioned by the petitioner in the appeal are that his unit has to be treated on par with Dairies and Milk chilling plants, Feed Mixing plants, cold storage plants and that it is a plant which has to run 24 hours by maintaining 250 tons of ice in the said premises at minus 10 degree Celsius failing which it will be miserable to run the unit, if discontinuity of power is there due to the said R&C measures.

10. The exemption given to the Dairies, Milk chilling plants and Feed Mixing plants in the R&C order of Commission is on the ground that they are connected with food items required by the people / cattle and cold storage is required to protect these perishable goods from putrefaction. The petitioner's unit, on the other hand is being run for the sake of entertainment. Petitioner's unit, is by its very nature, not on par with the units excluded from R&C measures by the Commission. Therefore, the petitioner cannot claim for exclusion from R&C measures on par with the Dairies, Milk chilling plants, Feed Mixing plants and cold storage plants. The request made by the petitioner is not justified and therefore cannot be considered for inclusion in the exempted category of the R&C measures order.

11. Hence, we are of the considered opinion that the petition filed by the petitioner is not sustainable and the same is liable to be dismissed.

12. In the result, the petition is dismissed.

This order is corrected and signed on this 22nd day of February, 2013.

**Sd/-
(R.ASHOKA CHARI)
MEMBER**

**Sd/
(C.R.SEKHAR REDDY
MEMBER**

**Sd/-
(A.RAGHOTHAM RAO)
CHAIRMAN**