



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE TWENTY SIXTH DAY OF APRIL,
TWO THOUSAND AND TWENTY THREE

:Present:

Justice C.V. Nagarjuna Reddy, Chairman
Sri Thakur Rama Singh, Member

O.P.No.63 of 2021

Between:

M/s. Shri Girija Alloy & Power (I) Pvt., Ltd.,
A Company incorporated under the Companies Act, 1956,
Sy.No.153 & 162, A.D.B.Road, Peddapuram-533 437,
East Godavari District, Andhra Pradesh,
Represented by Mr.Vinukodiath Padinhar,
HT No.RJY 1063

.... Petitioner

AND

Eastern Power Distribution Company of Andhra Pradesh (APEPDCL),
Rep., by its Managing Director, P & T Colony, Seetammadhara,
Visakhapatnam, Andhra Pradesh-530013

... Respondent

This Original Petition has come up for final hearing before us today in the presence of Sri M. Abinaya Reddy, learned counsel for the petitioner, Sri P. Shiva Rao, learned Standing Counsel for the respondent, that after carefully considering the material available on record and after hearing the arguments of the learned counsel for the both parties, the Commission passed the following:

ORDER

This Original Petition is filed for the following reliefs:

- a) To declare the actions of the respondent in not implementing Clause No.17 of Regulation No.3 of 2017, vide: Lr.No.APERC/Secy/F.No.S-19/17 dated 05-6-2017 in relation to startup power tariff rate with effect from 06-6-2017 which was clarified by the Hon'ble Commission vide: letters dated 12-10-2017 and 16-11-2017 as arbitrary, illegal, contrary to the provision of the Electricity Act, 2003;
- b) to direct the respondent to refund an amount of INR 89,62,994/- wrongfully collected towards fixed charges for the month(s) of August 2017, October, 2017, November, 2017, December, 2017 and February, 2018 by the respondent as stated in Table-2;
- c) to direct the respondent to refund an amount of INR 93,05,006/- wrongfully collected towards fixed charges for the month(s) of June, 2017, July, 2017, September, 2017, January, 2018 and March, 2018 by the respondent as stated in Table-3;
- d) Or in the alternative to prayer (b) and (c), direct the respondent to reconcile the petitioner's HT bills for the period of June, 2017 to March, 2018 and calculate startup power tariff in accordance with Clause No.17 of Regulation 3 of 2017, vide: Lr.No.APERC/Secy/F.No.S-19/17 dated 05-6-2017 and accordingly refund the amounts wrongfully collected from the petitioners;
- e) and pass such or further orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.

Shorn of needless details, the only issue required to be considered in this OP is whether the respondent has violated the Power Evacuation from Captive Generation, Cogeneration and Renewable Energy Source Power Plants Regulation 3 of 2017 (for short "Regulation 3 of 2017) with respect to startup power.

Clause 17 of the said Regulation reads thus:

"17. Extension of power supply for startup operations or for

plant maintenance:

APTRANSCO/DISCOMs shall extend power supply to all these generating plants either at Low Tension (LT) or at High Tension (HT) as desired by the power producer/Developer for maintenance, startup operations and lighting purpose. The tariff for these plants for FY 2017-18 shall be charged at the rate of Rs.11.77/unit without any fixed charges and minimum charges. The DISCOMs shall file tariff proposals under Section 62 of the Electricity Act, 2003 in the ARR proposals of FY 2018-19, for supply of electricity to this type of generating plants”.

The above said Regulation came into force with effect from 06-6-2017. For the period from 6-6-2017 to 31-3-2018 the respondent did not extend the benefit of single part tariff i.e., Rs.11.77 ps., per unit without any fixed charges and minimum charges on the startup power. The reason assigned by the respondent, as could be seen from the counter-affidavit filed by it, is that the petitioner failed to install a meter to segregate consumption of startup power from the balance power consumption. It is the further case of the respondent that on being informed of the said fact, the petitioner has installed such a meter in his premises towards the end of March, 2018; and that with effect from 01-4-2018 the respondent has given the benefit of exemption from fixed charges in respect of start up power, as envisaged under Regulation 3 of 2017.

At the hearing, the learned counsel for the petitioner has fairly not disputed the fact that a meter to segregate the startup power

consumption from the rest of the consumption could be installed only in the month of March, 2018. The learned counsel, however, submitted that the Regulation does not stipulate installation of such a meter as a condition precedent for extending the benefit of exemption from payment of fixed charges on startup power.

We are not inclined to accept this submission. When exemption is provided only in respect of start-up power consumption, in order to extend such a benefit, the quantum of consumption has to be necessarily known. Unless the meter segregating startup power from the balance power consumption is installed, it is not possible to extend the benefit of exemption from payment of fixed charges on the startup power. Even in the absence of express stipulation in the Regulation, it is implied that the consumer makes necessary arrangements for such segregation.

The learned counsel for the petitioner further submitted that for certain months minimum charges were collected even though the consumption was shown as “zero” units and that this is contrary to Regulation 3 of 2017. In our opinion, the benefit of exemption from fixed charges could be extended only if there is consumption - both startup as well as regular consumption. When a consumer has not consumed any units, minimum charges are collected based on the tariff

conditions and by general terms and conditions of supply. In the absence of startup consumption, the entire minimum charges are payable on the contracted capacity. In such a case, no part of the minimum charges could be attributable to startup power consumption.

For the aforementioned reasons, we do not find any merit in this OP and the same is, accordingly, dismissed.

Sd/-
Thakur Rama Singh
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman