



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

Dated: 08-02-2019

Present
Sri Justice G. Bhavani Prasad, Chairman
Dr. P. Raghu, Member
Sri P. Rama Mohan, Member

In the matter of Second Amendment to APERC (Security Deposit) Regulation, 2004 (Regulation No. 06 of 2004)

The subject matter has come up for hearing finally on 22-12-2018 in the presence of Sri P. Shiva Rao, learned Standing Counsel for both the Distribution companies viz., APSPDCL & APEPDCL and Sri Alladi Ravinder, learned counsel for TGV SRAAC Limited and there is no other representation by any other stakeholder. After carefully considering the material available on record and after hearing the arguments of the learned Standing Counsel and the learned counsel for the objector, the Commission passed the following:

O R D E R

The Commission notified Andhra Pradesh Electricity Regulatory Commission (Security Deposit) Regulation, 2004 (Regulation No. 6 of 2004) making a provision authorizing a Distribution Licensee to collect security deposit from the consumers requiring electricity supply towards amounts due to him in respect of the electricity supplied or towards the cost of providing any electric line/electric plant or electric meter for supply of electricity under section 47 of the Electricity Act,

2003. Subsequently, the Commission notified “Andhra Pradesh Electricity Regulatory Commission (Security Deposit) First Amendment Regulation, 2013”.

2) As per the sub clause (2) of clause (4) of the existing regulation, the HT consumers shall at all times maintain with the licensee an amount equivalent to consumption charges (i.e., demand charges and energy charges etc., as applicable) of two (2) months towards security during the period the agreement for supply of electricity to such HT consumers is in force.

3) Presently, the DISCOMs are collecting Initial Security Deposit (ISD) at the flat rates specified under clause 5 (1) and ISD is reviewed during April / May of next financial year based on the previous average consumption. In order to implement the provisions mentioned in sub clause (2) of clause 4 of this Regulation and to protect the interests of the DISCOMs and consumers at large, Commission felt that it is necessary to bring certain further amendments to the Andhra Pradesh Electricity Regulatory Commission (Security Deposit) Regulation, 2004.

4) Accordingly, the Commission prepared a draft amendment Regulation and the same was hosted in the Commission’s website on 16-11-2018 seeking comments/suggestions from interested persons/ stakeholders as required under sub section (3) of Section 181 of Electricity Act, 2003. The due date to receive comments/suggestions was on 30-11-2018. Public hearing was conducted on 15-12-2018 and on 22-12-2018.

5) The Learned counsel Sri. P. Shiva Rao, with reference to sub clause (4) of clause 5 stated that if the initial security deposit is found short of three (3) months average consumption, a one month notice shall be served for making payment to fill the gap towards security deposit. This issue was already covered in the

proposed draft Regulation under sub clause (4) of clause 5. Hence, no modification is required.

6) Further, Sri P. Shiva Rao, suggested that the following proviso be appended under the sub clause (1) of clause 6:

“Provided that in case of HT consumers, the adequacy of the amount of security deposit shall also be reviewed based on the previous six (6) months average consumption by licensee during October of every year and he shall serve one month notice for making payment, if required.”

The above clause is already specified in sub clause (1) of clause 6 and hence, no modification is required.

7) Further, Sri P. Shiva Rao also suggested that to consider an amount equivalent to consumption charges of three (3) months be permitted as security during the period of agreement in force, in case of LT consumers against existing two (2) months security deposit.

This issue is not mentioned in the proposed draft and hence cannot be considered.

8) The learned counsel Sri Alladi Ravinder stated that the proposed insertion of clause 5(5) after sub clause (4) of clause 5 in respect of review of security deposit collected after expiry of three (3) months from the date of release of power supply for all new HT services/HT additional loads is not necessary, since regular review of security deposit is provided in the regulation. During general review, if it is found that there is increase in energy consumption in a cycle of every 12 months, i.e., 1st April to 31st March, a consumer will pay the required security deposit.

Therefore, the proposed insertion of the above mentioned clause is contrary to law

and also arbitrary beside violation of rights guaranteed under Article 14 of Constitution of India.

9) Sri Alladi Ravinder, further submitted that the legislative intention is that the licensee shall have reasonable security for its supply of power to be consumed by the consumer and to secure payment for its supply of power. Since the security deposit is collected by the licensee either as one time amount or on instalment basis, again asking the companies to provide bank guarantee is burden on the companies and the proposed amendment is unreasonable, arbitrary and also excessive burden on the companies.

10) He further submitted that the proposed proviso to sub clause (1) of clause 6 will also lead to excessive burden on the HT consumers who need to make good the security deposit every six months instead of once in a year, if their consumption of power increases.

11) He further submitted that lack of reasons amounts to arbitrary proposal which will have huge impact on their Industry, as this industry is Energy Intensive. There is no rationale in the proposed amendments to the Security deposit Regulation. The purpose of levying security deposit on consumers is to maintain security towards consumption charges and the same is being reviewed by the licensee once in every 12 months and any deficit in maintaining the two (2) months consumption charges will be paid by the consumer.

12) With reference to the averments mentioned in the paras (8) to (11) above, review of security deposit is very much essential as the security deposit is levied based on a normative rate i.e., @ Rs 500 per kVA per month. The load factor of industries varies from 25% to 85% depending upon nature of industry. The proposed

amendment is not a new clause and it is made to bring more clarity to the existing regulation in order to protect the interests of consumers at large and the Distribution licensees. As per sub clause (2) of clause 4 of existing Regulation, a HT consumer shall at all times maintain with the licensee an amount equivalent to consumption charges of two months as security as extracted hereunder

“Clause 4(2): The HT consumers shall at all times maintain with the licensee an amount equivalent to consumption charges (i.e demand charges and energy charges etc., as applicable) of two months as security during the period the Agreement for supply of energy to such HT consumers is in force.”

The Security deposit levied based on normative rate may not be sufficient for high load factor industries and hence review of Security deposit is very much essential after expiry of three months from the date of release of power supply. In fact, there is no provision for granting instalments towards Security Deposit in the present Regulation No. 6 of 2004 and the Distribution licensee is entitled to seek reasonable security under section 47 of the electricity Act, 2003, for the payment to him of all monies which are due to him and may become due to him.

13) Considering all the objections/suggestions, the Commission decided to make the following amendments to the “Andhra Pradesh Electricity Regulatory Commission (Security Deposit) Regulation, 2004”.

(i) Sub clause (4) of clause 5 shall be substituted with the following:

The initial security deposit shall be reviewed after the expiry of three (3) months, in accordance with sub-clause (1) of clause 4 above. If it is found that the initial security deposit is short of three (3) months average consumption, a one month notice shall be served for making payment to fill the gap towards security deposit.

- (ii) The following new sub clauses shall be inserted after sub clause (4) of clause 5:-

Clause 5(5): The DISCOM shall review the security deposit collected after expiry of three (3) months from the date of release of power supply based on the actual consumption, for all new HT services /HT additional loads in accordance with sub clause (2) of clause (4) above. If it is found that the initial security deposit is short of three (3) months average consumption, a one month notice shall be served for making payment to fill the gap towards security deposit.

Clause 5(6): The Distribution licensee shall not grant instalments towards security deposit.

Provided, however, that if any person seeks instalments, the DISCOM may grant instalments at its discretion subject to taking bank guarantee.

- (iii) The following proviso shall be appended to the sub clause (1) of clause 6:

Provided that in case of HT consumers, the adequacy of the amount of security deposit shall also be reviewed based on the previous six (6) months average consumption by licensee during October of every year and shall serve one month notice for making payment, if required.

The **Second Amendment to (Security Deposit) Regulation, 2004** shall be sent for publication in the Gazette of Andhra Pradesh.

This order is corrected and signed on this the 8th day of February, 2019.

Sd/-
P. Rama Mohan
Member

Sd/-
P. Raghu
Member

Sd/-
Justice Sri. G. Bhavani Prasad
Chairman