



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 Third Amendment to APERC (Supply Code) Regulation, 2004 (Regulation No. 5 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 Learned Counsel for the objector, the Commission passed the following:

ORDER

The Commission notified Andhra Pradesh Electricity Regulatory Commission (Electricity Supply code) Regulation, 2004 under section 50 of the Electricity Act, 2003 to provide for Recovery of electricity charges, Payment of electricity Bill, Disconnection of supply for non-payment thereof, and Restoration of supply of electricity, etc.,.

2) The principal Regulation (Regulation No. 5 of 2004) was published in the gazette of Andhra Pradesh on 17-03-2004. The Commission notified “Andhra Pradesh Electricity Regulatory Commission (Electricity Supply code) First Amendment Regulation, 2006” and the same was published in the Gazette of Andhra Pradesh on 04-03-2006. Subsequently,

the Commission notified “APEREC (Electricity Supply Code) Second Amendment Regulation, 2013” and the same was published in the gazette of Andhra Pradesh on 05-08-2013.

3) Further, the Commission reviewed the “Andhra Pradesh Electricity Regulatory Commission (Electricity Supply code) Regulation, 2004” as amended from time to time and noticed that the said Regulation requires certain further amendments. 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 the 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.

4) The Learned Standing counsel Sri P. Shiva Rao, stated that release of additional load need not be denied to those consumers who are having arrears, as bank guarantee is being insisted for grant of instalments. He further stated that they don’t have any objection for other proposed amendments and welcomed the amendments.

5) The learned counsel Sri. Alladi Ravinder, stated that the proposed insertion of proviso to clause 4.6.1 of Supply Code Regulation is anti industrial, since it gives power to the Licensees to insist on providing bank guarantee for availing instalments. He further stated that the legislative intention is that the licensee has to ensure securing payment for its supply by observing the credibility of the consumer and insisting the consumers to provide bank guarantee is unreasonable, arbitrary and it leads to excessive burden on the consumers.

6) Sri Alladi Ravinder, further submitted that providing bank guarantee to the licensee in respect of payment of security deposit in instalments very much defeats the purpose of granting of instalments, since most of the companies already would have created security for obtaining loans, working capital etc. In this scenario, insisting for bank guarantee will put tremendous pressure on consumer. It is not out of place to

mention that sub clause 3 of clause 6 of the Regulation provides for levy of interest on belated payments. Once the penal provisions are in place, the question of providing bank guarantee is unnecessary.

7) The averments made in the para 4 above are found reasonable and worthy of consideration and hence the amendment proposed vide clause 4.6.3 can be dropped.

8) The averments made in the paras (5) and (6) have no merit as a 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. The distribution licensees have to purchase power from generating companies and are obligated to make payment to generators and Transmission Licensee. The Distribution Licensees also have to pay interest to their power suppliers, banks and financial institutions as per the agreed terms and conditions. The interest component levied at the rate of 18% on the belated payment of charges is reasonable and cannot be termed as penal charge. Penal charge can be one which is prohibitively high, like charges levied in case of unauthorised use of electricity or theft of electric power.

9) The point for consideration is whether the proposed amendments are essential or not. Under section 47 of the electricity Act, 2003, a Distribution licensee is entitled to seek reasonable security for the electricity already supplied or to be supplied. The spirit of regulation is that a consumer is supposed to maintain security in terms of cash and not in the form of bank guarantee. In order to protect the interests of consumers at large and Distribution Licensees in case of postponing cash payment to instalments, providing security by means of bank guarantee is envisaged in the proposed draft regulation.

10) The Commission examined all the issues proposed in the draft regulation and considering all objections/suggestions, the Commission decided to make the following amendments to the “Andhra Pradesh Electricity Regulatory Commission (Electricity Supply code) Regulation, 2004”.

(i) The following details shall be inserted in clause 4.2 (n) (12):

“4.2 (n) (12) Others

(i) Security deposit available

(ii) Indicative Security Deposit to be maintained.”

(ii) The following proviso shall be appended to the clause 4.6.1:

“Provided that the licensee shall not grant instalments without taking bank guarantee, towards security.”

(iii) In clause 4.7.3, the number “24%” shall be substituted with the number “18%”.

11) The 3rd Amendment to the Supply code Regulation No. 5 of 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