TELANGANA STATE ELECTRICITY REGULATORY COMMISSION

5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

R.P.(SR) No.99 of 2018
in
O.P.No.21 of 2017

Dated 20.07.2021

Present
Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Between:

Southern Power Distribution Company of Telangana Limited,
6-1-50, Mint Compound, Hyderabad-500 063. ... Petitioner

AND

-Nil- … Respondent

The petition came up for hearing on 04.02.2021 and 15.03.2021. Sri Mohammad Bande Ali, Law Attaché along with Sri K. Satish Kumar, DE, TSSPDCL for the petitioner on 04.02.2021 and Sri Mohammad Bande Ali, Law Attaché for the petitioner 15.03.2021 appeared through video conference, having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

Southern Power Distribution Company of Telangana Limited (TSSPDCL) (review petitioner) has filed this review petition under Section 94 (1) (f) of the Electricity Act, 2003 (Act, 2003) read with clause 32 of Conduct of Business Regulation, 2015 seeking review of the order passed by the Commission dated 27.03.2018 in O. P. No. 21 of 2017 whereby the retail supply tariffs has been determined for FY 2018-19.

2. The review petitioner stated that the licensee having studied and analysed the retail supply business tariff order for FY 2018-19 dated 27.03.2018 passed in O. P.

No. 21 of 2017, identified the following areas where the above order of the Commission need to be reviewed under the circumstances mentioned in detail under each head. The issues identified by the licensee relate to:

a) Approving higher energy availability and dispatch from inter-state hydel generating stations;

b) Consideration of higher quantum of sale of surplus power;

c) Variation in power purchase cost approved for certain power plants;

d) Consideration of saving due to UDAY scheme in retail supply business;

3. **Issue 1:** Approving higher energy availability and dispatch from inter-state hydel generating stations: the review petitioner stated as below:

a) The licensees have projected energy availability of 99 MU for FY 2018-19 from inter-state hydel generating stations viz., Machkund (94 MU) and Tungabhadra PH (4 MU) based on the actual energy availability for FY 2016-17.

b) The approved energy availability from the aforementioned generating stations for FY 2018-19 is 383.3 MU that is 297.51 MU & 85.79 MU from Machkund and Tungabhadra PH respectively. It is mentioned in the retail supply tariff order for FY 2018-19 that the approved energy availability for hydel stations is based on the average of actual energy availability for the previous 5 years. However, it is pertinent to mention that the average of actual energy availability for the previous 5 years from the above mentioned stations is 103 MU and 44 MU totalling to 147 MU only and the same is presented below:

Actual energy availability from inter-state hydel generating stations for the previous 5 years

Year	Machkund PH (MU)	Tungabhadra PH (MU)	Total inter-state hydel (MU)
FY 2012-13*	154.49	61.87	216.36
FY 2013-14*	167.45	82.48	249.93
FY 2014-15	98.1	72.61	170.71
FY 2015-16	0.00	0.00	0.00
FY 2016-17	94.43	4.39	98.83
Average (MU)	**102.89**	**44.27**	**147.17**

* *TS Share of 53.89% is considered in the total energy dispatched for AP State before bifurcation*

c) Hence, the approval of nearly three times higher availability of energy for FY 2018-19 is unrealistic and questionable. It is to submit that the variation in energy availability approved from hydel generating station being must run stations have significant financial impact on the licensee and the same is presented below.

Particulars	**Value**
Approved Availability for FY 2017-18	383.3 MU
Actual Average Availability for previous 5 years	147.17 MU
Difference in Availability Approved	236.13 MU
Financial Impact (considering the rate assumed for the sale of surplus power in the tariff order that is Rs.3.10/unit)	73.2 Cr.
Financial Impact on the License (share of 70.55%)	51.64 Cr.

d) The dispatch from the abovementioned hydel stations was discontinued with effect from 11.06.2017 due to the termination of inter-state allocation between Telangana and Andhra Pradesh States.

e) In view of the above, the licensee requests the Commission to revise the energy availability/dispatch approved from the abovementioned inter-state hydel stations.

4. **Issue 2.** Consideration of higher quantum of sale of surplus power: The review petitioner stated as below.

a) In the retail supply tariff order for FY 2018-19, the difference between availability and requirement of energy is considered as surplus power with the DISCOMs quantitating to the extent of 8046.59 MU.

b) The actual energy sold in the power exchanges during FY 2016-17 and FY 2017-18 is only 150 MU and 1718 MU respectively. Hence, the sale of surplus power of 8046.59 MU considered in the tariff order for FY 2018-19 (which is equivalent to 1224 MW per hour) is highly unrealistic and far from the actuals.

c) To maintain the uninterrupted, reliable and quality power supply to all the consumers including agricultural consumers in Telangana State, TSDISCOMs have decided to keep 500 MW towards spinning reserve. This spinning reserve capacity will be kept always ready and it will be dispatched whenever on the event of shut down of any generator or in any emergency conditions. Hence this 500 MW will always kept in back down position and the equivalent energy of 4,380 MU (500x24x365/1000) cannot be sold in the market. Hence net energy availability of surplus power is only 3584.27 MU. The entire 3584 cannot be sold in the market due to the following reasons.

i) TSDISCOMs will have the surplus power during the periods 22.00 hrs to 06.00 hrs which is the off-peak period and from 10.00 hrs to 18.00 hrs which is solar generation period.

ii) For the balance period i.e., 06.00 to 10.00 hrs and 18.00 to 22.00 hrs, the DISCOMs will be in a deficit position and they do not have enough surplus power to sell in the market.

iii) During the off-peak 22.00 hrs to 06.00 hrs, the market prices will be lower. TSDISCOMs have to sell the power in the market so that they can meet the cost of power purchase in the event of selling the power in the market. During this off-peak period there will be more quantum of surplus power, but selling the entire surplus power cannot be possible due to lower market prices.

d) Further, the consideration of higher quantum of sale of surplus power leads to a substantial impact on the ARR of the licensee and the same is presented below.

Particulars	**Value**
Approved sale of surplus power for FY 2018-19	8046.59 MU
Maximum possible sale of surplus power based on the actuals during FY 2017-18	1718 MU
Difference	6328.59 MU
Net financial impact (considering the rate assumed for the sale of surplus power in the tariff order that is Rs.3.10/unit and marginal PP cost of Rs.2.82/unit leading to an effective rate of Rs.0.28/unit for the sale of surplus power)	179.39 Cr.
Net financial impact on the licensee (share of 50% as considered in tariff order for FY 2018-19)	89.69

e) In view of the above, it is requested to restrict the sale of surplus power to 1718 MU that is at the same level of the actual surplus power sold during FY 2017-18 in the exchange.

f) Hence, the review petitioner requests the Commission to revise the quantum of sale of surplus power approved for FY 2018-19.

5. **Issue 3**. Variation in power purchase cost approved for certain power plants: The review petitioner stated as below.

a) Variation in fixed cost approved for KTPS A, B & C Station:

i) The approved fixed cost for the KTPS A, B and C in the TSGENCO generation tariff order for 3rd control period 2014-19 dated 05.06.2017 is Rs. 593.01 crore. Though, it has been mentioned in the retail supply tariff order for FY 2018-19 that the fixed costs for TSGENCO stations has been considered as per TSGENCO MYT order, the fixed cost considered for KTPS A, B and C is Rs. 543.59 crore. But, there is no detail for variation of the same by Rs. 49.42 crore.

Fixed Cost of KTPS A, B & C Station (Rs.in crore)		
As per TSGENCO tariff order for 3rd control period 2014-2919 dated 05.06.2017	**Considered in the retail supply tariff order for FY 2018-19**	**Difference**
593.01	543.59	49.42

ii) The licensee requests the Commission to revise the fixed cost considered for KTPS A, B and C station as per the generation tariff order of TSGENCO for 3rd Control period 2014-19 issued by the Commission dated 05.06.2017.

b) Non consideration of energy availability/dispatch from NTECL Vallur TPS & NLC Tamil Nadu Power Limited:

i) In retail supply tariff order for FY 2017-18, the DISCOMs were directed to surrender the allocated share of State of Telangana in NTECL Vallur TPS and NLC Tamil Nadu Power Ltd in view of high cost of generation.

ii) In this regard, the DISCOM has submitted the request to Ministry of Power (MoP), Government of India (GoI) but, there is no confirmation from MoP, GoI and the same was submitted in the filings of ARR for retail supply business of the licensee for FY 2018-19.

iii) However, the allocation from these two stations has not been considered in the tariff order for FY 2018-19 thereby not allowing fixed costs of these two stations amounting to Rs.298 crore.

iv) That the MoP, GoI would reallocate the share of Telangana State in the aforementioned generating stations only if other beneficiaries seek such allocation and thus, till such time, the DISCOMs are bound to the implementation of PPAs, and have to receive energy as per the allocation and pay the fixed costs pertaining to these stations. Thus, non-consideration of fixed costs pertaining to these generating stations has resulted in reduction of the ARR of the licensee by Rs. 210 crore i.e., 70.55% of Rs. 298 crore.

v) That non-consideration of availability from these stations in the tariff order may lead to an objection from AG Audit that is on payment of monthly energy bills (around Rs.75 crore) to the aforementioned generating stations.

vi) The issue of surrendering the share of the licensees in the above mentioned generating stations is not within the limits of the licensees and involves the accord from MoP, GoI.

vii) Hence, the licensee requests the Commission to consider the energy availability from the aforementioned generating stations thereby allowing the fixed costs pertaining to these stations.

6. **Issue 4.** <u>Consideration of savings due to UDAY scheme in retail supply business</u>: The review petitioner stated as below.

a) The licensee has not considered the savings due to UDAY scheme in retail supply business and submitted that the takeover loans under UDAY scheme would impact the distribution business which can be trued up at the end of the control period as a part of additional information as sought by the Commission for filings of ARR for retail supply business of the licensee for FY 2018-19.

b) With regard to the retail supply business, the Commission has been permitting the agricultural sales which are limited to approved levels only. However, the licensee has taken loans for supplying power to agricultural consumers and the same has not been considered by the Commission. Hence, the licensee prayed before the Commission not to consider any reduction due to takeover of loans under UDAY scheme.

c) In this regard, a saving of Rs. 743.88 crore considered in the retail supply tariff order for FY 2018-19 on account of UDAY scheme is unjustifiable and also against the Regulation No. 4 of 2005, as these costs pertains to distribution business and has to be considered in the distribution MYT true-up at the end of control period considering the actual interest rates paid by distribution licensee. The relevant part of the regulation (clause 10.7 of Reg. No.4 of 2005) is placed below for perusal.

> *"10.7 For the purpose of sharing gains and losses with the consumers, only aggregate gains or losses for the control period as a whole will be considered. The Commission will review the gains and losses for each item of the ARR and make appropriate adjustments wherever required."*

d) That some portion of loans have been taken for paying the power purchase bills to the generators and this cost is not considered in the approved ARR in the previous tariff orders. Hence, reduction of interest rates on the loans taken by DISCOM for paying the power purchase bills is not correct. All these factors are leading the DISCOMs to financial crisis with the effect of not allowing by the Commission.

e) The licensee requests the Commission to consider the savings in UDAY at the time of review of MYT True-up considering all gains/losses accrued during the control period.

7. The review petitioner therefore prays this Commission to review the retail supply tariff order for FY 2018-19 dated 27.03.2018 as distinctly prayed under each head as noted below.

a) to revise the energy availability/dispatch approved from inter-state Hydel Generating Stations viz., Machkund and Tungabhadra PH.

b) to revise the quantum of sale of surplus power for FY 2018-19 to 1718 MU at state level based on the actual surplus power sold in the market during FY 2017-18.

c) To revise the fixed cost considered for KTPS A, B and C station as per the generation tariff order of TSGENCO for 3rd control period 2014-19 issued by the Commission dated 05.06.2017.

d) To consider the energy availability from NTECL Vallur TPS and NLC Tamil Nadu Power Limited generating stations thereby allowing the fixed costs pertaining to these stations.

e) To consider the distribution business savings due to UDAY scheme in the distribution business MYT True-up at the end of the control period as per clause 10.7 of the Regulation No. 4 of 2005.

f) Not to consider the reduction in interest cost on power purchase loan as these loans taken to meet the power purchase costs which are not allowed by the Commission in the tariff orders and subsequent power purchase true-ups.

8. The Commission heard the representative of the review petitioner. It also perused the relevant material including the original order passed by the Commission. The submissions of representative of the review petitioner at the time of hearing are as extracted below:

Record of Proceedings dated 04.02.2021

"… The representative of the petitioner stated and explained the reasons for filing the review petition against the order determining the retail supply tariff for FY 2018-19. The Divisional Engineer on being allowed stated that the DISCOMs have various issues with regard to power purchases, consideration of various tariff proposals and subsidy component. …"

Record of Proceedings dated 15.03.2021

"… The representative of the petitioner explained in detail the issues that require review by the Commission duly stating the facts and figures in the matter. While reserving the matter, the Commission required the petitioner to file true up for distribution activity of the licensee immediately for consideration of these issues. … "

9. The point that arise for consideration in this matter is -

'Whether the order dated 27.03.2018 in O.P.No.21 of 2017 in the matter of determination of retail supply tariffs for FY 2018-19, is liable for review as sought by the Review Petitioner?

10. Section 94 (1) (f) of the Electricity Act, 2003 empower the Commission for reviewing its decisions, directions and orders and such review powers are same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (CPC). *Section 114 of CPC* as well as Order 47 of *CPC* says about the review power of a civil court. Under Section 114 of CPC a person feeling aggrieved either by decree or by an

order of court from which appeal is allowed but no appeal is preferred or where there is no provision for appeal against an order and decree may apply for review of the decree or order as the case may be in the Court, which passed the order. Order 47 Rule 1 of CPC stipulates that, a review of judgement or an order could be sought (a) from the discovery of new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant/petitioner; (b) such important matter or evidence could not be produced by the applicant/petitioner at the time when the decree was passed or order made; and (c) on account of some mistake or error apparent on the face of the record or any other sufficient reason.

The above provisions of CPC relating to review power need to be kept in mind by this Commission, while disposing of review petition filed before it u/s 94 (1) (f) of the Act.

Issue 1: Approving higher energy availability and dispatch from inter-state hydel generating stations

11. In para 3.3.16 of Retail Supply Tariffs (RST) Order for FY 2018-19 dated 27.03.2018 the approach adopted by the Commission for projecting the availability for Hydel station is specified, and is reproduced below:

> *"3.3.16The energy availability from existing hydel generating stations has been projected considering the monthly average of the actual generation during the previous 5 years and share allocation to Telangana State in the respective generating stations. The energy availability from new stations has been projected considering the expected COD of the respective station/unit. The energy availability projections approved by the Commission is as shown in the Table below:"*

12. Since the issue on energy availability is related to power purchase quantity, the Commission is of the view that the actual energy availability from Machkund and Tungabhadra shall be appropriately considered after prudence check, when the review petitioner files its true up petition for FY 2018-19.

Issue 2: Consideration of higher quantum of sale of surplus power

13. This Commission has arrived at the surplus power based on the information furnished by the TSDISCOMs in their ARR filings. The Commission is of the view that

any difference in power purchase quantity and cost shall be considered after prudence check, when the review petitioner files its true up petition for FY 2018-19.

Issue 3: Variation in power purchase cost approved for certain power plants

(a) Variation in fixed cost approved for KTPS A, B & C station

14. In RST Order dated 27.03.2018 the Commission considered installed capacity as 660 MW for KTPS ABC for FY 2018-19 (as against 720 MW filed by TSDiscoms taking into account de-commissioning of 60 MW unit) and approved the Fixed Cost of Rs. 543.59 crore which is in proportion to the actual available capacity of 660 MW.

(b) Non-consideration of energy availability/dispatch from NTECL Vallur TPS & NLC Tamil Nadu Power Ltd.

15. In RST Order for FY 2017-18 dated 26.08.2017, it has been noted that to reduce the financial burden, the Licensees submitted a requisition to MoP, GoI expressing its willingness to surrender the share of Telangana State from NTECL Vallur TPS. Since NLC Tamil Nadu Power Ltd., was also a similar project with high cost of generation, TSDISCOMs were directed to surrender the allocated share of Telangana State in NTECL Vallur TPS and NLC Tamil Nadu Power Ltd., and accordingly not considered the energy availability from these generating stations from 01.08.2017 onwards. The relevant para of the RST Order for FY 2018-19 is reproduced below:

> *"3.3.18 The Commission in its Tariff Order for FY 2017-18 dated 26.08.2017 directed the DISCOMs to surrender the allocated share of Telangana State in NTECL Vallur TPS and NLC Tamil Nadu Power Ltd. and accordingly, had not considered the energy availability from these stations from 01.08.2017. The DISCOMs submitted that in response to their request for re-allocation of the share of Telangana State in NTECL Vallur TPS, there is no confirmation from the Ministry of Power, GoI to that effect. The DISCOMs also submitted that the re-allocation of the share in NLC Tamil Nadu Power Ltd. will be taken up after the re-allocation of share in NTECL Vallur TPS. The Commission observed that the DISCOMs are procuring power from NTECL Vallur TPS and NLC Tamil Nadu Power Ltd. in FY 2017-18 and have proposed in FY 2018-19 also. In light of the directions in the Tariff Order for FY 2017-18, the Commission has not considered the share allocation to Telangana State from NTECL Vallur TPS and NLC Tamil Nadu Power Ltd. for FY 2018-19."*

16. Thus, in light of the directions in the Tariff Order for FY 2017-18, the Commission had taken a considered view while approving the energy availability from these stations.

Issue 4: Consideration of savings due to UDAY Scheme in retail supply business

17. During the proceedings for RST Order for FY 2018-19, the Commission had directed the licensees to submit the savings on their distribution businesses upon implementation of UDAY. In reply, the Licensees have submitted that the savings due to UDAY Scheme may be considered at the end of the Control Period. However, the Commission had not found merit in the request of TSDISCOMs and accordingly, considered the savings as Rs. 743.88 crore and Rs. 372.54 crore for TSSPDCL and TSNPDCL respectively. The relevant para of the RST Order for FY 2018-19 on the Commission's analysis and ruling is reproduced below:

> *"3.19.1 The Government of India, Government of Telangana State and the Licensees have entered into a Tripartite MoU (UDAY MoU) dated 04.01.2017 in order to improve the operational and financial efficiency of the Licensees to enable their financial turnaround. Under the said scheme, the Government of Telangana State is to take over 75% of the outstanding debt of the Licensees as on 30.09.2015 by the end of FY 2016-17. The Commission directed the Licensees to submit the savings on their distribution businesses upon implementation of UDAY. In reply, the Licensees submitted that the savings due to UDAY Scheme may be considered at the end of the Control Period. The Commission does not find merit in the submissions of the DISCOMs particularly when the savings have been indicated and considered by the Commission in the Tariff Order for FY 2017-18. Hence, the Commission has considered the savings as Rs. 743.88 crore and Rs. 372.54 crore for SPDCL and NPDCL respectively, the same as considered in the Tariff Order for FY 2017-18."*

18. In the present Review Petition, the review petitioner has reiterated its earlier request that the savings due to UDAY Scheme may be considered at the end of the Control Period. The Commission has already dealt with this issue as above in the Order. Further, the UDAY scheme was introduced by the Ministry of Power, Government of India for the financial turnaround of the State DISCOMs with objectives to improve their operational and financial efficiency. The scheme was intended to

reduce burdened debts of the licensees and to give the relief to the consumers through reduction of tariffs. Postponing passing of the benefits of the scheme to consumers till the end of the Control Period would amount to defeating the purpose of the scheme itself.

19. Upon perusal of the material on record along with the principles for undertaking review of an order, no specific contentions adverting to any violation of the principles for reviewing as enumerated above at para 10 are raised in the review petition which would have called upon the Commission to re-examine the findings made in the order dated 27.03.2018.

20. Thus, for all the reasons explained above, the review petition fails and is accordingly refused.

This order is corrected and signed on this the 20th day of July, 2021.

Sd/-	Sd/-	Sd/-
(BANDARU KRISHNAIAH)	(M. D. MANOHAR RAJU)	(T. SRIRANGA RAO)
MEMBER	MEMBER	CHAIRMAN

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