



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

R.P.(SR) No.18 of 2022

in

O.P.No.71 of 2018

Dated 17.01.2023

Present

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

Between:

Northern Power Distribution Company of Telangana Limited,
Vidyuth Bhavan,
Hanamkonda, Telangana.

... Review Petitioner/Respondent

AND

M/s MSR Mega Bio Power Private Limited,
Plot No.9, Flat No.202, H.No.1-2-48/1/9,
Nandishwar Nilayam, Nizampet,
Hyderabad 500 072.

... Respondent/Original Petitioner

The review petition came up for hearing on 22.08.2022 and 12.09.2022, 30.09.2022. Sri. Mohammad Bande Ali, Law Attaché for review petitioner has appeared on 22.08.2022, 12.09.2022 and 30.09.2022. Sri Deepak Chowdary, Advocate representing Sri. Challa Gunaranjan, counsel for respondent has appeared on 30.09.2022. The matter having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

Northern Power Distribution Company of Telangana Limited (TSNPDCL) (review petitioner) has filed this review petition under section 94(1)(f) of the Electricity Act, 2003 (Act, 2003) seeking review of order dated 02.12.2021 passed in O.P.No.71 of 2018 filed by M/s MSR Mega Bio Power Private Limited (respondent/original petitioner). The contents of the review petition are extracted below:

- a. It is stated that the review petition is preferred against the Commission orders dated 02.12.2021 issued in O.P.No.71 of 2018 in the matter of

petition filed by original petitioner for determination of fixed cost tariff for its 7.5 MW Industrial Waste based power plant located at Nidigonda Village, Raghunathpally Mandal, Warangal.

- b. It is stated that original petitioner filed petition O.P.No.71 of 2018 under Section 62, 86(1)(b) and (e) of the Act, 2003 to fix the tariff for their 7.5 Industrial Waste based power plant.
- c. It is stated that original petitioner in the petition prayed for fixing the tariff for their 7.5 MW Industrial Waste power project (poultry litter) in accordance with the orders passed in *Suo-Motu* Petition No.SM/03/2016 on 29.04.2016 by the Central Electricity Regulatory Commission (CERC) and the orders passed by the Commission *Suo-Motu* order dated 10.04.2018 notifying the actual fuel price escalation and variable cost or appropriate tariff as deemed fit.
- d. It is stated that power purchase agreement (PPA) dated 30.04.2016 and amendment dated 01.05.2018 were entered by TSNPDCL with original petitioner for purchase of power from their 7.5 MW capacity Industrial Waste based power project. As the tariff for the Industrial Waste based projects commissioned from 01.04.2009 was yet to be determined, the PPA was signed with an interim tariff till final tariff is fixed by the Commission.
- e. It is stated that accordingly, the developer filed petition O.P.No.71 of 2018 praying for determination of tariff for their project.
- f. It is stated that the Commission vide its orders dated 11.08.2021 expressed the view that determination of tariff has to be undertaken through public consultation/hearing mode.
- g. It is stated that accordingly, public notice was issued inviting objections / suggestions in the matter of determination of tariff for 7.5 MW Industrial Waste based project of original petitioner. In response, TSNPDCL submitted their objections/suggestions. Subsequently, public hearing was conducted on 08.11.2021.
- h. It is stated that taking into consideration the filings of the developer including the additional information furnished and submissions of the stakeholders, the Commission approved the following fixed cost tariff for the developer's project:

Year of Operation	Fixed Cost tariff Rs/kWh	Year of Operation	Fixed Cost tariff Rs/kWh
1	2.16	11	2.19
2	2.15	12	2.22
3	2.15	13	1.89
4	2.14	14	1.98
5	2.14	15	2.07
6	2.14	16	2.17
7	2.14	17	2.27
8	2.15	18	2.38
9	2.16	19	2.50
10	2.17	20	2.62

- i. It is further specified in the order that the year wise per unit tariff determined shall be applicable for the delivered energy corresponding to the normative PLF for the corresponding year approved in the order. The per unit tariff approved is exclusive of the income tax. The income tax paid by the developer on the income derived from the power project shall be reimbursed by TSNPDCL on submission of challans of tax paid to Income Tax Department.
- j. It is stated that the abstract of parameters adopted by TSERC in the said tariff order along with proposals of the developer and TSNPDCL are as below:

Parameter	Sought by the developer	Sought by DISCOM	Approved by TSERC
Capital Cost	671.50 lakh/MW	As per actuals subject to max ceiling of Rs.559.03 lakh/MW	474.07 lakh/MW
Debt Equity	70:30	70:30	77.67:22.33
Useful life	20 years	20 years	20 years
PLF	80%	80%	80%
Auxiliary Consumption	12%	10%	10%
Return on Equity	20% for first 10 years, 24% from 11 th year onwards	14%	14% on post-tax basis
Interest on loan	12.70%	9%	11.20%
Depreciation	5.83% for first 12 years and balance spread uniformly over rest useful life	5.83% for first 12 years and 2.51% from 13 th year onwards	6.49% for first 12 years and balance spread uniformly over rest useful life

Parameter	Sought by the developer	Sought by DISCOM	Approved by TSERC
O&M Expenses	Rs.47.26 lakh/MW for 1 st year of operation	5.5% of capital cost viz., Rs.30.7467 lakh/MW for 1 st year of operation	Rs.47.26 lakh/MW for 1 st year of operation
O&M escalation	5.72%	3.84%	5.72%
Interest on working capital	13.26%	10.50%	12.20%

- k. It is stated that the Commission did not consider the submissions of the DISCOM and allowed higher values in certain financial parameters such as, Interest on term loan, Interest on working capital, O&M expenses and O&M escalation.
- l. It is stated that aggrieved by the same, this review petition is filed praying for review of the parameters viz., Interest on term loan, interest on working capital, O&M expenses and O&M escalation.
- m. It is stated that the Commission did not consider the following facts while issuing the impugned order:
- i) Interest on term loan:
 - a) The developer sought for interest rate of 12.70% on loan with repayment period of 12 years.
 - b) Keeping in view the declining trend of interest rates, TSNPDCL prayed for interest rate of 9% in line with CERC RE tariff order dated 31.03.2021 in Petition No.2/SM/2021.
 - c) However, the Commission approved interest on loan @ 11.20% (SBI 1 year MCLR rates as on 01.04.2016 i.e., 9.20% + 200 basis points), duly stating that although the benchmark interest rates have been reduced with the passage of time, it is prudent to consider the benchmark interest rate prevalent at the time of COD.
 - d) The interest rate on term loan approved by this Commission @ 11.20% is much higher than the rate prescribed by CERC.

- e) The Commission vide para 4.9.4 of the impugned order observed that the submissions of petitioner regarding long-term loans availed for the project are not in consonance.
 - f) As such, considering the actual amounts paid by the developer towards interest on loan which are lower than approved by the Commission and to pass the advantage of reduced interest rates to DISCOM, the Commission is prayed to review the interest on term loan and fix it as 9% in line with the latest CERC norms.
- ii) Interest on working capital:
- a) The developer sought for interest on working capital of 13.26% duly considering working capital components of (i) O&M expenses for 1 month, (ii) Maintenance spares @ 15% of O&M expenses and (iii) receivables equivalent to 2 months of fixed cost corresponding to normative PLF.
 - b) Keeping in view the declining trend of interest rates, TSNPDCL prayed for interest on working capital @ 10.50% in line with CERC RE tariff order dated 31.03.2021 in Petition No. 2/SM/2021.
 - c) However, the Commission approved interest on working capital @ 12.20% (SBI 1 year MCLR rates as on 01.04.2016 that is 9.20% + 300 basis points.
 - d) The interest rate on working capital approved by the Commission @ 12.20% is much higher than the rate prescribed by CERC.
 - e) Taking into consideration the observation of the Commission at para 4.12.2 that the developer has not executed any agreements for working capital loans and to pass the advantage of reduced interest rates to DISCOM, the Commission is prayed to review the Interest on working capital and fix it as 10.5% in line with the latest CERC norms.

- iii) O&M expenses and escalation:
- a) The developer sought for O&M expenses of Rs. 47.26 lakh / MW for 1st year of operation with annual escalation of 5.72%, in accordance with the provisions of the CERC RE Tariff Regulations, 2012.
 - b) Since the determination of tariff in the present case being project specific, DISCOM prayed for O&M expenses @ 5.5% of capital cost as per actuals with annual escalation @ 3.84% in line with CERC RE tariff order dated 31.03.2021 in Petition No.2/SM/2021.
 - c) However, the Commission approved O&M expenses of Rs. 47.26 lakh / MW for the 1st year of operation as claimed by the developer with annual escalation factor of 5.72%.
 - d) The approved O&M expenses are far above the actual expenses incurred by the project developer, thus causing undue burden on the DISCOM.
 - e) It is pertinent to submit that since the capital cost of the project was approved based on the audited accounts furnished by the developer, the same equation shall be extended for determining the O&M expenses as well. Allowing the O&M expenses more than the expenses incurred actually by the developer resulted in hike of tariff to the tune of around Rs.0.50 per unit.
 - f) It is justified to pass the benefit of lower O&M expenses incurred by the developer to the end consumer by way of reduced fixed cost tariff.
 - g) The Commission observed at para 4.11.4 of the impugned order that “... .. *the actual PLFs in the previous years has been significantly lower than the normative PLF... ..*”. In this regard, it is stated that DISCOM shall be compensated for the under generation of the project lower than normative PLF. This is so because the DISCOM design the power purchase procurement plan based on the generation estimates which in turn are calculated on

normative PLFs. As such, when the developer's project is run below the normative PLF, the DISCOM is forced to depend on the volatile market for purchase of power to meet the power demand. In fact the DISCOM have to spend extra money for purchasing comparatively expensive power from the open market to compensate the under generation by the developer. As such, the DISCOM needs to be compensated with lower FC to be arrived based on the actual O&M expenses incurred.

h) In view of project specific tariff and availability of actual expenses incurred, it is prayed that the Commission review the O&M expenses approved as per actuals with escalation @ 3.84% in line with the latest CERC norms.

2. The review petitioner has sought the following reliefs in the review petition:

- i. The review petition may be taken on record and admitted.*
- ii. The parameters viz., interest on loan, interest on working capital, O&M expenses and escalation be reviewed."*

3. The respondent / original petitioner has filed counter affidavit to the review petition preferred by the review petitioner with following contentions:

- a. It is stated that at the outset the original petitioner denies and disputes each and every allegation, averment and contention made in the petition, which is contrary to or inconsistent with what is stated herein, as if the same has been traversed in seriatim, save and except what has been specifically and expressly admitted hereinafter in writing. Any omission on the part of the original petitioner to deal with any specific contention or averment of the review petitioner herein may not be construed as an admission of the same by the original petitioner/ respondents.
- b. It is stated that the review petitioner is seeking review of four parameters determined by the Commission, being interest on term loan, interest on working capital, O&M expenses and O&M escalation. At the outset, it is stated that the present petition is not maintainable as the ingredients of

review as set out under Order XLVII, Rule 1 of the CPC have not been made out, which are:

- i. Where there is a typographical mistake that has crept in the order;
 - ii. When there is an arithmetical mistake that has crept in while effecting calculation or otherwise;
 - iii. When there is a mistake committed by Commission, which is apparent from the material facts available on record and/or in respect of application of law;
 - iv. When the Commission omitted to take into consideration certain material facts on record and 'law on the subject' and that if on taking into consideration those aspects, there is a possibility of Commission coming to a different conclusion contrary to the findings given;
 - v. If the aggrieved party produced new material which he could not produce during the enquiry in spite of his best efforts and had that material or evidence been available, the Commission could have come to a different conclusion;
- c. It is stated that the parameters sought to be reviewed have been thoroughly dealt with by the Commission as follows:

Parameters	Paragraphs of the Order
Interest on term Loan	Para Nos.4.9.4 to 4.9.9
Interest on Working Capital	Para Nos.4.12.1 – 4.12.6
O&M expenses	Para Nos.4.11.4 – 4.11.6
O&M escalation	Para No.4.11.5

As such, there are absolutely no grounds made out by the review petitioner to review the order dated 02.12.2021 of the Commission, and the present petition is not maintainable and is liable to be dismissed.

- d. It is stated that even on merits, the review petitioner has not made out any cogent ground for the Commission to review the order dated 02.12.2021. Further, the averments at para Nos.13(i)(f), 13(ii)(e), 13(iii)(d) to (g) are being pleaded for the first time and are not present in the objections of the review petitioner dated 27.10.2021. It is impermissible for such new grounds to be raised for the first time in a review petition and the same ought not to be countenanced.

- e. It is stated that the averment that the approved interest on term loan is much higher than the rate prescribed by CERC is wholly incorrect, as the CERC in its order dated 29.04.2016 in *Suo-Motu* Petition No.SM/03/2016 has determined the interest on debt to be 12.76%. The Commission after considering the debt portion of the approved capital cost as the opening loan, the repayment period as 12 years, the repayment for each year to be equal to the approved depreciation for that year, and the average normative loan of the year based on the SBI MCLR, has determined the interest on loan to be 11.2%. At para No.4.9.9 of the order dated 02.12.2021, the Commission has also tabled the interest on debt as claimed by the review petitioner and the approved interest on debt.
- f. It is stated that the Commission has determined the interest on working capital as 12.2% by considering the SBI MCLR prevalent at the time of CoD, as against 13.26% as claimed by the petitioner as per the CERC's tariff order dated 29.04.2016. It is settled law that absence of external funding of working capital does not mean that the cost of funds deployed is "zero". Internal funds also carry cost and a reasonable cost for the same is required to be worked out allowed for determination of interest on working capital. This issue of external funding as opposed to the internal funding accrual has been already considered by the Commission in line with settled principles as recorded at para No.4.12.3.
- g. It is stated that the Commission was pleased to approve the O&M expenses on a normative basis considering the commensurate PLF actually achieved in the years of operation till date. Further, the Commission had also observed that the trend of inflation factors is on the increasing side, and after reasonably factoring in the movement of inflation factors, the Commission was pleased to accept the escalation factor at 5.72%.
- h. It is stated that it is settled law that for biomass, bagasse and Industrial Waste plants, in view of the inflation in prices, considering O&M expenses as percentage of the capital cost cannot sustain in long run and such power plants become non-viable due to their frequent breakdowns due to inadequate O&M. As such, the averment made by

the review petitioner to consider the O&M expenses as percentage of capital cost is erroneous.

- i. It is stated that the averment that the review petitioner has to be compensated for lower PLF by way of lower fixed cost is also completely misconceived and erroneous. Not only does the project developer suffer loss due to a lower than normative PLF, the entire purpose of tariff determination to ensure that the project developer would be able to recover its costs by the end of the working life of the plant would be defeated if the averments of the review petitioner are countenanced.

4. In view of the afore-stated facts and circumstances, the original petitioner prays the Commission to dismiss the review petition.

5. The Commission has heard the parties to the petition and considered the material available to it. The submissions on various dates are noticed below, which are extracted for ready reference.

Record of proceedings dated 22.08.2022:

".... .. The representative of the review petitioner stated that the review petition is filed for reviewing the order passed by the Commission. Even though, no notice is issued to the respondent/generator, the counsel appearing for the respondent/petitioner in the original petition submitted that he needs to file counter affidavit in the matter. Accordingly, the matter is adjourned."

Record of proceedings dated 12.09.2022:

"... .. The representative of the review petitioner stated that the review petition is filed for reviewing the order passed by the Commission. In continuation of the representation made by the respondent on the earlier date of hearing that counter affidavit would be filed, the counsel for respondent stated that the same is being filed today. The representative of the review petitioner stated that he needs time to go through the counter affidavit being filed by the respondent and hence matter may be adjourned. In view of the submission of the parties, the matter is adjourned."

Record of proceedings dated 30.09.2022:

"... .. The representative of the review petitioner stated that the review petition is filed for reviewing the order passed by the Commission. It is his case that several aspects of the tariff relating to interest, interest on working capital, O&M expenses as also the consolidated tariff did not reflect the parameters set out in the CERC regulation. The review petitioner had no opportunity to explain and canvass on the above aspects in the original proceedings as it was not accessing the regulation. The ingredients of the Order XLVII Rule 1 of CPC are satisfied in this case, as the Commission did not consider all the facts of the tariff including the CERC regulation that this is a fit case for reviewing the order. This review petition is also filed on the premise that the tariff fixed by the Commission is at higher level and is consequently burdening the end consumer

due to wrong application of the parameters while determining the tariff as submitted in the review petition. The endeavour of the review petitioner is to lessen the burden of the tariff to the end consumer. Therefore, the Commission may review the order passed by it duly taking into consideration the submissions made by it.

The counsel for the respondent stated that nothing precluded the review petitioner from submitting the relevant data and also the regulation applicable at the time of hearing itself. The present review petition is beyond the scope of review and does not fit into the ingredients thereof. The review petitioner having not raised contentions in the original proceedings cannot seek to substitute its view point in the matter through this review petition. All the parameters required for determining the tariff in the petition have been considered by the Commission. There remains nothing to be interfered with the order passed by the Commission at this point of time. The Commission may consider refusing to entertain the review petition. Having heard the submissions of the parties, the matter is reserved for orders.”

6. The review petitioner sought to raise issues, which are primarily within the knowledge of the review petitioner as on the date of public hearing undertaken by the Commission on 08.11.2021. The contentions raised by the review petitioner do not constitute any material, which would be discovered after the disposal of the original proceedings. Inasmuch as, the various parameters considered by the Commission are based on the submissions of the parties and nothing exterior is considered by the Commission.

7. It is noteworthy to state that the principles of review are not satisfied in respect of the contentions raised by the review petitioner, as stated by the respondent/petitioner in its contentions about the ingredients of review. None of the contentions would attract the ingredients of review so as to allow the Commission to revisit the order.

8. As stated by the respondent/original petitioner, the Commission had in fact considered all the appropriate material while determining the tariff in respect of the procurement by the review petitioner. Nonetheless, the review petitioner sought to highlight certain parameters, as have been enunciated by the Central Commission, have not been considered or additional benefit has been conferred on the respondent/petitioner by deviating from the orders of the Central Commission. Nothing precluded the review petitioner from placing all such information at the initial stage when the matter was heard in adjudicatory process on various dates mentioned in the

order under review at paragraph 1.2.1 as also subsequently in the public hearing mode on 08.11.2021.

9. Suffice it to state that the material placed now seeking review of the order was well within the knowledge of the review petitioner. Also, it is worth mentioning that the consent for the PPA was obtained from the Commission on 26.04.2016 and executed on 30.04.2016. However, it has been mentioned that the tariff payable would be as per the provisions extracted provided as below:

“2.2 The Company shall be paid the tariff for the energy delivered at the interconnection point for sale to TSNPDCL at the tariff indicated in schedule–IA shall be the interim tariff till final tariff is fixed by the Commission for the new Industrial Waste based project. Any excess/short payment made/received with reference to the final tariff fixed by the Commission shall be subject to adjustment retrospectively from the Commercial Operation Date (COD) without any interest liability thereon.

2.3 The tariff is inclusive of all taxes duties and levies.”

The said agreement also provided for a Schedule at IA.

“SCHEDULE–IA

Two-Tier Tariff: Industrial Waste (poultry litter) based power projects

Year of Operation	Fixed Cost Rs.per unit	<i>Indicate Variable Cost for Industrial Waste Based Power Projects for the period FY 2014-15 to 2018-19 (Rs.per unit)</i>	
1 st	1.61		
2 nd	1.57		
3 rd	1.53		
4 th	1.49	<i>Financial year</i>	<i>Variable cost Rs.Per unit</i>
5 th	1.45	2014-15	4.28
6 th	1.41	2015-16	4.54
7 th	1.37	2016-17	4.81
8 th	1.33	2017-18	5.10
9 th	1.26	2018-19	5.40
10 th	0.87		

* *The fuel price escalation is indicative (6%) Actual Fuel Price escalation would be notified by the Commission before the start of each Financial Year Starting from FY 2015-16.*

** *This is the rate TSDISCOMs have to pay.*

The tariff indicated in Schedule–IA shall be the interim tariff till final tariff is fixed by the Commission for the new Industries Waste based projects. Any excess/short payment made/received with reference to the final tariff fixed by the Commission is subject to adjustment retrospectively from the date of commercial operation (COD) without any interest liability thereon.

The project shall be entitled to a tariff with the Component of fixed charges based on the year of operation (nth year) and variable charge corresponding to the financial year of the operation.

Settlement period is one year from the date of commercial operation for calculation of fixed charges.

Fixed charges are payable for a PLF 80% of energy for export to grid for sale to TSNPDCL as indicated in Schedule-I.

Where PLF during a settlement period exceeds 80% only variable cost as indicated above and an incentive of 25 paise per unit shall be paid for every unit delivered excess of the above PLF.

10. The order under review specifically mentions the fixed cost at paragraph 4.13. The variable cost is dependent on the generic order issued by the Commission in the year 2020. Further, Clauses 4.13.2 and 4.13.3 state as below:

“4.13.2 The year wise per unit tariff determined in this Order shall be applicable, for the delivered energy corresponding to the normative PLF for the corresponding year approved in this Order. This per unit tariff is exclusive of the income tax. The income tax paid by the Petitioner on the income derived from the power project shall be reimbursed by TSNPDCL on submission of challans of Tax paid to Income Tax Department.

4.13.3 As the year wise per unit tariff shall be payable by TSNPDCL, the Commission does not find the need to determine the levelized per unit tariff.”

11. The variable cost had already been considered by the Commission in the generic order dated 21.04.2020 for the FY 2019 -20. It is stated therein as below:

“14. Based on the above, the Commission approves the following norms for TSERC 5 determination of Variable Cost for the FY 2019-20 for the existing Biomass, Bagasse and Industrial Waste projects in the State of Telangana, which are having PPAs with the Distribution Licensees:

Table 2: Approved norms for determination of Variable Cost

Sl. No.	Parameter	Units	Approved for FY 2019-20		
			Biomass based power projects	Bagasse based power projects	Industrial Waste based power projects
1	Station Heat Rate	kcal/kWh	4200	3600	4200
2	Auxiliary Consumption	%	10%	9%	10%
3	Gross Calorific Value	kcal/kg	3100	2250	3100
4	Fuel Price	Rs./MT	3168	1788	3168
5	Variable Cost	Rs./kWh	4.77	3.14	4.77

APPLICABILITY

15. The Commission directs the Distribution Licensees namely Southern Power Distribution Company of Telangana Limited (TSSPDCL) and Northern Power Distribution Company of Telangana Limited (TSNPDCL) to pay the above Variable Cost for the power purchased from Biomass,

Bagasse and Industrial Waste based power projects in the State of Telangana for the FY 2019-20.”

Further, the Commission had also determined the variable cost for the control period 2020-21 to 2023-24 by an order dated 28.08.2020. The relevant portion is extracted below:

- “37. *Based on the above, the Commission approves the following norms and determines the Variable Cost for the period from FY 2020-21 to FY 2023-24 for existing Biomass, Bagasse and Industrial Waste based power projects in the State of Telangana which are having PPAs with the Distribution Licensees:*

Table 1: Approved norms and Variable Cost for the period from FY 2020-21 to FY 2023-24

Sl. No.	Parameter	Unit	Approved		
			Biomass based power projects	Bagasse based co-generation power projects	Industrial waste-based power projects
1	Station Heat Rate	kcal/kWh	4200	3600	4200
2	Auxiliary consumption	%	10%	9%	10%
3	Gross Calorific Value	Kcal/kg	3100	2250	3100
4	Fuel Price				
	FY 2020-21	Rs./MT	3326	1877	3326
	FY 2021-22	Rs./MT	3492	1971	3492
	FY 2022-23	Rs./MT	3667	2070	3667
	FY 2023-24	Rs./MT	3850	2174	3850
5	Variable Cost				
	FY 2020-21	Rs./kWh	5.0069	3.3002	5.0069
	FY 2021-22	Rs./kWh	5.2568	3.4655	5.2568
	FY 2022-23	Rs./kWh	5.5202	3.6396	5.5202
	FY 2023-24	Rs./kWh	5.7957	3.8224	5.7957

APPLICABILITY

38. *The Commission directs the Distribution Licensees namely Southern Power Distribution Company of Telangana Limited (TSSPDCL) and Northern Power Distribution Company of Telangana Limited (TSNPDCL) to pay the above Variable Cost for the period from FY 2020-21 to FY 2023-24 for the power purchased from existing Biomass, Bagasse and Industrial waste-based power projects in the State of Telangana and having PPAs with the Distribution Licensees.”*

The variable cost having already been determined, the parties have no issue on this aspect.

12. The parameters that have been considered by the Commission while determining the fixed cost based on the normatives and after considering all the material available to it. The review petitioner having had the opportunity of submitting the relevant information including the orders passed by the Commission in respect of variable cost as extracted above cannot now turn round and state that the error has occurred in the order.

13. Viewing from any angle, the review petitioner has not satisfied the ingredients of review and is estopped from contending that the order is contrary to the law. The arguments set out in the present review petition in the least scenario would be a case for appeal and the same cannot be basis for reviewing the order passed by the Commission.

14. Accordingly, the review petition fails and the same is dismissed without any costs.

This order is corrected and signed on this the 17th day of January, 2023.

Sd/-
(BANDARU KRISHNAIAH)
MEMBER

Sd/-
(M. D. MANOHAR RAJU)
MEMBER

Sd/-
(T. SRIRANGA RAO)
CHAIRMAN

//CERTIFIED COPY//