

ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

Present: Shri S. P. Nanda, Chairperson
Shri S. P. Swain, Member
Shri A. K. Das, Member

Case No. 46/2014

North Odisha Chamber of Commerce & Industries, Balasore.....	Petitioner
Vrs.	
NESCO & others	Respondents

In the matter of: **An application u/S. 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 of OERC (Conduct of Business) Regulations, 2004 for review of the Retail Supply Tariff order dated 22.03.2014 passed in Case Nos. 85 to 88 of 2013 in respect to “Interest on Security Deposit & Calculation of load factor ”.**

For Petitioner: Shri Arun Kumar Samanta (Financial Consultant), the authorized representative of M/s NOCCI.

For Respondent: Shri K. C. Nanda, DGM (Fin.), WESCO, Shri P. K. Das, CGM (Com.), CESU, Shri B. D. Ojha, DGM (Eco.), GRIDCO Ltd., Shri S. K. Puri, GM (RT & C), OPTCL, Shri B. P. Mishra, CGM, (RT &C), OPTCL, Shri T. K. Mishra, GM, SLDC and Ms. Niharika Pattnaik, ALO, DoE, GoO are present.

Nobody is present on behalf of NESCO & SOUTHCO.

Order

Date of hearing: 26.09.2014

Date of order:03.02.2015

- The present Petitioner North Odisha Chamber of Commerce and Industry (NOCCI) seeks to review the Commission’s Retail Supply Tariff Order for FY 2014-15 on two issues such as interest on security deposit and calculation of load factor. These two issues find place in paragraph 349 & 350 and Paragraph 431-433 respectively of the said Tariff Order.
2. The Petitioner points out that Regulation 21 (1) of OERC (Distribution and Conditions of Supply) Code, 2004 provides that the licensee shall pay interest on security deposit of the consumer at the bank rate notified by Reserve Bank of India (RBI) and provided that the Commission may direct a higher rate of interest from time to time by notification in official Gazette. The Petitioner further submitted that the Commission has allowed interest rate @ 8.75% on the closing balance on consumer’s security deposit as on 31.03.2014. But it is found from the notification of the Reserve Bank latest rate available till the Publication of

the order is @ 9% per annum from 28.01.2014. This is an error apparent on the face of the Retail Supply Tariff Order dtd. 22.03.2014. The Commission in this order has misquoted the interest rate of RBI as 8.75% instead of 9%.

3. The Petitioner further pointed out that the Commission in the Retail Supply Tariff Order for FY 2014-15 in para 433 defined 'power on hours' as total hours in the billing period minus allowable power interruption hour. The allowable power interruption hour should be calculated by deducting 60 hours in a month from the total interruption hour. There is no justification for such permissible limit. In one hand the Commission allowed graded slab to encourage for more consumption than the average and other way allowing a period of 60 hours of interruption period. That means in order to achieve the load factor of 60% a consumer has to maintain at least 68% of power on hours for allowing the interruption period of 60 hours.
4. The Respondents NESCO, WESCO & SOUTHCO submitted that the review application is not maintainable since the petition does not meet the conditions stipulated under Order 47 Rule 1 of CPC. The Commission while passing the order has fully entertained the grounds of the Petitioner through public hearing and provided sufficient reasons on the same matter. Therefore, there is no mistake or error apparent on the face of the record. The present application are in the form of appeal and not bears the nature and content of review.
5. The Respondents further submitted that the bank rate varies during the year. It may be as low as 6% or 9% or above. Thus fixing the interest rate based on bank rate of a particular date is not exactly prescribed by the Regulation. Thus the bank rate on the date of ARR application i.e. 30th November, 2013 was 8.75% and was correctly fixed by the Commission. Even if the interest on consumers security deposit is considered as 9% the additional tariff would be imposed on the consumers will be 0.20 paise per unit which in effect neutralizes the additional interest rate allowed to the consumers.
6. On the issue of load factor computation the Respondent submitted that the same is being done as per OERC (Distribution and Conditions of Supply) Code, 2004. The Industry Association themselves welcomed the proposal of calculating load factor basing on number of hours the power is available during tariff hearing for FY 2012-13. The concept of 'Power on hours' had been introduced in the previous Tariff Period i.e. FY 2012-13 and 2013-14 and continued in the current tariff period. Accordingly, the matter have been decided and remains without challenge.

7. The Petitioner has also filed its rejoinder. We heard the parties at length. The present application has been filed to review our Retail Supply Tariff order for FY 2014-15 and therefore, its scope is limited. We agree with respondents that the bank rate undergoes change from time to time by the notification of RBI. The Commission, therefore, have to take the bank rate available on a particular date. Accordingly, the Commission, fixed to remove anomaly, the rate of interest on security deposit as 8.75% which was declared by RBI as on 01.01.2014 though it had underwent change on 28.01.2014. Accordingly, we find no apparent error on the face of the record.
8. The other issue is methodology on computation of load factor where the petitioner suggests the Commission to compute the load factor in a particular way. In para 433 of the original Order we have provided the definition of 'Power on hours' which goes into calculation of load factor. This cannot be construed as an error apparent on the face of the record. Rather this is an appeal in disguise. Therefore, the suggestion is not acceptable at present.
9. Accordingly, the case is disposed of.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson