

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN,
PLOT NO. 4, CHUNOKOLI, SHAILASHREE VIHAR,
BHUBANESWAR-751021**

**Present: Shri U. N. Behera, Chairperson
Shri S. K. Parhi, Member
Shri G. Mohapatra, Member**

Case No. 38/2021

East Coast Railway	Petitioner
Vrs.		
CEO, TPCODL & Others	Respondents

In the matter of: **Application under S.94 (1) (f) of the Electricity Act, 2003 read with Reg. 70 (1) of the OERC (Conduct of Business) Regulations, 2004 for review of Order dated 26.03.2021 of the Commission passed in Case Nos. 75, 76, 77, 78, 79, 80, 81 & 82 (A) of 2020 regarding distribution utilities TPCODL, TPNODL, TPWODL and TPSODL for approval of ARR and Open Access Charges for FY 2021-22.**

For Petitioner: Shri Debi Prasad Dash.

For Respondent: Shri V. Wagle, TPCODL, Shri Binod Nayak, Asst. GM (Comm.), TPSODL, Shri Pratap Mohanty, Sr. Gm (Risk, Regulatory and Legal), TPNODL, Shri K. C. Nanda, DGM (Fin.), TPWODL, Shri R. C. Satpathy, Shri R. P. Mahapatra, Shri Ananda Kumar Mohapatra.

Nobody is present on behalf of DoE, GoO, Shri A. K. Sahani, M/s. Top Tech Steels (P) Ltd., M/s. Shree Salsar Casting Pvt. Ltd., M/s. D.D. Iron & Steel Pvt. Ltd., Shri Bibhu Charan Swain, M/s. Power Tech Pvt. Ltd., M/s. Bajaranga Steel and Alloys Ltd., M/s. Maa Girija Ispat Pvt. Ltd., M/s. Shri Radha Krishna Ispat (P) Ltd., M/s. Refulgent Ispat Pvt. Ltd., M/s. Scan Steels Ltd., M/s. Indian Energy Exchange, Sundargarh District Employees Association, Sambalpur District Consumers Federation, Prayas, Shri P. K. Pradhan, Shri Prabhakar Dora, M/s. Balasore Alloys Ltd., M/s. Visa Steel Ltd., M/s. Tata Steel Ltd., Odisha Consumers Association, Shri Prashant Kumar Panda, M/s. Maa Bana Devi Poultry Pvt. Ltd., Grahak Panchayat, M/s. Pragati Milk Products Pvt. Ltd., Odisha Retired Power Engineers' Forum and Confederation of Citizen Association.

ORDER

Date of hearing: 03.08.2021

Date of order: 04.10.2021

The present Petitioner East Coast Railways (ECoR) is a bulk consumer availing traction power supply at 9 nos. of RTSSs from TPCODL, at 4 nos. of RTSSs from TPNODL, at 7 nos. of RTSSs from TPSODL and at 9 nos. of RTSSs from TPSWDL.

2. In the present petition it has sought the review of the RST order passed by the Commission on 26.03.2021 in Case Nos. 75, 76, 77 & 78 of 2020 and in Case No. 79, 80, 81 & 82(A) of 2020.
3. The petitioner has stated that they had participated in the public hearing conducted by the Commission on 15.02.2021, 17.02.2021, 18.02.2021 and 19.02.2021 and also had submitted their written objections. ECoR has submitted that their economic operation is badly affected and not viable due to the rise in tariff. Railway Traction has been given due importance and kept as a separate category in the neighboring states like Andhra Pradesh, Madhya Pradesh, Maharashtra etc. but OERC has combined them with other EHT categories and has increased their tariff.
4. The petitioner has further submitted that achievement of 60% of load factor by Railways at individual traction substations is not possible due to the nature of the traction load. Railway traction load is distributed over several points (RTSS) of the OPTCL grid and the nature of load is moving from one area to another, for which the load factor in a particular point is low. The load factor of Railways will be more than 80%, if simultaneous metering will be done taking into account the drawal at different points.
5. The petitioner has stated that introduction of KVAH based tariff also alters the pattern of billing significantly. Installation of Capacitor Banks are required to adopt the present KVAH pattern of billing for which ECoR requires huge investment and sufficient time. Further, the unit rate for traction supply in the neighbouring states is less in comparison to Odisha. ECoR has requested the Commission to allow them cheaper traction tariff considering their track record of high consumption and timely payment of around Rs.595 Cr. to DISCOMs during FY 2020-21.
6. The Petitioner has requested the Commission to allow them following relief while reviewing their order.
 - (a) To treat railway as a separate category for Railway Traction tariff.
 - (b) To give load factor incentive from 20% for railway traction category
 - (c) To give sufficient time to the petitioner Railway for adoption of kVAh based tariff.
7. The Respondents TPWODL, TPNODL and TPSODL have made the following replies on the application of the Petitioner.

- (a) The petitioner, ECoR has raised similar/same issues which were dealt in the earlier ARR and tariff order of the DISCOMs by the Commission.
- (b) ECoR is availing power supply in two phases which cannot be compared with the other industries drawing in three phases more efficiently. Therefore, Railway traction tariff needs to be fixed at higher level because of its non-efficient use. Further, Railway traction has been placed as a separate category in the Tariff Regulations and schedule published by the Commission.
- (c) Power supply to Railway traction has been extended to individual premises at different locations connected through different feeders. Hence, consideration of single consumer for the power availed at different locations is not permissible as per the prevailing Regulations.
- (d) As regards to kVAh billing, almost all the states across the country have already implemented the same. The prime objective of the kVAh billing is to encourage the consumer to maintain near unity power factor to achieve loss reduction, improve system stability, power quality and improve voltage profile. Further, the Forum of Regulators during 2009-10 has suggested introduction of kVAh billing. The Commission for the benefit of the sector and considering the submission of the stake holders during the hearing has implemented the kVAh tariff. Hence, the submission that implementation of kVAh tariff is early does not merit consideration.
- (e) In view of the aforesaid facts and circumstances, there is no ground for review and the present petition of the applicant should be dismissed on the ground of maintainability.

8. Another respondent, TPCODL has submitted that various SERC's have set different load factor limits for rebate as per loading and other conditions of that respective State. Bihar Electricity Regulatory Commission has allowed a concession of 20 paise per unit on energy charges for energy consumption over 50% and upto 70% of load factor and 30 paise per unit on energy charges for energy consumption over and above 70% and upto 100% of load factor during the billing month.

Further, Jharkhand Electricity Regulatory Commission has allowed the rebate only in case of the consumers whose load factor exceeds 45%. For any "X"% increase in the load factor over and above 45%, the rebate has been allowed at the rate of "X"% on the total energy charges corresponding to energy consumption of the consumers subject to a maximum ceiling rebate of 15%. Hence, Load factor rebate is State

dependent and the Commission has decided it accordingly for the state of Odisha. Further, the tariff for Railway traction in Odisha is quite competitive compared to the neighbouring States and more economical at higher load factor.

10. The Commission heard the parties and observed that the issues raised by Railways in the present review petition are nothing new and have already been addressed by the Commission in its order dated 26.03.2021 in Case No. 75, 76, 77 & 78 of 2020 and in Case No.79, 80, 81, 82(A) of 2020 while approving the Annual Revenue Requirement (ARR) and Retail supply tariff and open access charges respectively for the FY 2021-22. The present petition appears more to be an appeal on the issues which had already been raised by the Railways and been addressed by the Commission in the aforesaid orders. Railway traction is a separate category both at HT and EHT and accordingly tariff has been allotted to it. As per Section 94(1) (f) of the Electricity Act, 2003, this Commission has the same power as are vested with the Civil Court under the Code of Civil Procedure, 1908 in respect of reviewing its decisions, directions and orders. As per Order 47 Rule 1 of the Civil Procedure Code, review of an order can be made on the following grounds:

- (a) Error apparent on the face of the record;
- (b) New and important matter or evidence which is relevant for the purpose was discovered which could not be produced after exercise of due diligence or if there appears to be some mistake;
- (c) Any other sufficient reason.

Error contemplated under the rule must be such which is apparent on the face of the record and not an error which is to be fished out and searched. It must be an error of inadvertence.

But no such error has been pointed out by the Petitioner seeking the review of the impugned order. The Commission has already considered the matter under prayer and passed orders considering all legitimate factors. The present petition appears more to be an appeal than prayer for review of the order. The review petition is therefore rejected.

11. Accordingly, the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson