

**ODISHA ELECTRICITY REGULATORY COMMISSION  
PLOT NO. 4, CHUNUKOLI, SAILESHREE VIHAR,  
CHANDRASEKHARPUR,  
BHUBANESWAR-751021**

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**Present:      Shri S C Mahapatra, Chairperson  
                  Shri G Mohapatra, Member  
                  Shri S K Ray Mohapatra, Member**

**Case No. 56/2023**

M/s. TRL Krosaki Refractories Ltd.	.....	Petitioner
Vrs.		
TPWODL & Others	.....	Respondents

**In the matter of:**      **Application under Section 94(1)(f) read with Section 86(1)(k) of the Electricity Act, 2003 and Regulation 6(6), 70&76 of the OERC (Conduct of Business) Regulations, 2004 and Order 47Rule 1 of the Code of Civil Procedure, 1908 for review of Order dated 23.03.2023 of the Commission passed in Case No.80 of 2022.**

**For Petitioner:**      Shri Pronoy Mohanty, Advocate

**For Respondents:**      Shri K.C. Nanda, GM (RA & Strategy), TPWODL, Shri Bibhu Charan Swain on behalf of M/s. Swain & Sons and M/s. Scan Steel Ltd., Shri P.K. Pradhan, Shri Ananda Kumar Mohapatra on behalf of Shri Soumya Ranjan Pattnaik & self, Shri A.K. Sahani and Shri A.K. Mishra, Heal Legal, GRIDCO Ltd.  
None appears on behalf of the other Respondents.

**ORDER**

**Date of Hearing: 18.07.2023**

**Date of Order: 18.07.2023**

The Petitioner-M/s. TRL Krosaki Refractories Ltd. has filed the present application under Section 94(1)(f) read with Section 86(1)(k) of the Electricity Act, 2003 and Regulation 6(6), 70&76 of the OERC (Conduct of Business) Regulations, 2004 and the provisions of Order 47Rule-1 of the Code of Civil Procedure, 1908 seeking review of the Commission's Order dated 23.03.2023 passed in Case No.80 of 2022 raising the issue of erroneous granting of the interest on the security deposit of the petitioner by the Licensee-TPWODL. The Petitioner has prayed for condonation of delay in filing the Review Petition under nomenclature of Interim Application.

2. The Review Petition is taken up for hearing on the question of maintainability at the stage of admission.
3. Averments of the Petitioner made in its petition are summarized hereinafter.
  - a) The applicant company is having the business of manufacture, sale and supply of refractory materials with registered office at Belpahar in Jharsuguda District of Odisha and a HT consumer of the DISCOM-TPWODL (erstwhile WESCO). The petitioner has deposited its security deposit amount with the licensee as and when demanded by them. TPWODL, vide its demand notice dated 18.05.2022, demanded for deposit of additional security amounting to Rs.73,90,318.74 and the petitioner deposited the same on 26.05.2022.
  - b) Further, the petitioner-company has been credited with the interest on its security deposit amount lying as on 31.03.2023 with TPWODL and the said interest on security deposit amount has been adjusted against the bills of the petitioner by TPWODL. However, the said interest on security deposit of the Petitioner has been computed by TPWODL on the basis of wrong interest rate in a misconceived and unlawful manner and not as per the provisions mandated under the Electricity Act, 2003 and provisions of the OERC Distribution (Conditions of Supply) Code, 2019.
  - c) The licensee-TPWODL has computed the interest on security deposit based on the Bank Rate of RBI as per the Commission's order dated 22.03.2023 passed in Case No.80 of 2022, which provides for computation of interest on security deposit based on the old Distribution Supply Code, 2004. The Supply Code, 2004 has been repealed after notification of the OERC Distribution (Conditions of Supply) Code, 2019 and as per this new Supply Code, the licensee shall pay the interest on security deposit to the consumer at the Bank Rate (SBI Base Rate as on 1<sup>st</sup> April of the relevant year). Further, the Electricity Act, 2003 mandates for calculation of interest on security deposit of the consumer at the rate equivalent to the Bank Rate or more as may be specified by the State Commission. The petitioner has further contended that the CERC Tariff Regulation, 2014 also defines the Bank rate as the base rate of interest as specified by State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points.

- d) In view of the above, the Licensee-TPWODL has wrongly adopted the interest on security deposit as per the OERC Distribution Code, 2004 which is unlawful particularly when the OERC Distribution Code, 2019 is in force. This results in non-compliance of the statutory benefits to be conferred on the consumers in gross violation of the legal provisions. Further, the Tariff order dated 23.03.2023 suffers from error apparent on the face of the record, inasmuch as, it provides for calculation of interest on security deposit as per the OERC Distribution (Conditions of Supply) Code, 2004 which has become obsolete particularly when the OERC Distribution (Conditions of Supply) Code, 2019 came into force. As the said Tariff order dated 23.03.2023 is in violation and non-compliance of the provisions of the Electricity Act, 2003 and the Regulations framed there-under, the impugned order dated 23.03.2023 is to be reviewed.
4. The Respondent-TPWODL submitted that the tariff order dated 23.03.2023 passed in Case No.80 of 2022 is being governed under OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2022, which stipulates that Bank Rate for calculation of interest on security deposit shall be the rate declared by the Reserve Bank of India for the relevant year. Accordingly, TPWODL has credited interest on the security deposit in the consumers' account. Therefore, the case has no merit and liable to be rejected.
  5. The Respondents, Shri Bibhu Charan Swain, Authorised Representative of M/s. Scan Steels Ltd. & Others, Shri A.K. Sahani, Authorised Representative of M/s. Bajrangbali Sponge & Power Ltd., Shri Ananda Kumar Mohapatra, on behalf of Shri Somya Ranjan Pattnaik & Self and Er. (Dr.) P.K. Pradhan sought for time for hearing on the ground that the copies of the Review Application have not been supplied to them. They also seek for supply of the same. Shri A.K. Mishra, Head Legal, GRIDCO Ltd. prays for a copy of the Review Petition as they have not yet received it. None of the remaining respondents appears.
  6. Heard the parties through hybrid mode (virtual and physical). On perusal of the record, it is seen that the small question that needs to be determined in the present proceeding initiated under Section 94(1)(f) read with Section 86(1)(k) of the Electricity Act, 2003 and Regulation 6(6), 70 & 76 of the OERC (Conduct of Business) Regulations, 2004 and the provisions of Order 47 Rule 1 of the Code of Civil Procedure, 1908 is "whether there is any apparent error on the face of the record in the decision of this Commission in the impugned

order dated 23.03.2023, calling for review”. To put in other words, the question is whether the Review Petitioner is able to make out any case in his favour compelling this Commission to review its own order keeping in view the statutory provisions and related Regulations, if any. In such a matter, the Respondents / Objectors can hardly be said to be necessary or proper parties to be heard. Further, since the Commission for the reasons to be recorded hereinafter is going to decide the present Review Application, on the basis of OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2022, which is the latest one, on the subject, the Commission does not feel it necessary to drag on the matter any further. Hence the submissions made by the present Respondents merit no consideration.

7. Basing upon the above submissions of the Petitioner, the Commission proceeded to find out whether any case for review crops up in terms of Section 114 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 according to which a person aggrieved by order can file a review on the following grounds.

- a) Discovery of new and important matter of evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him when the decree was passed or order made;
- b) On account of some mistake or error apparent on the face of record; and
- c) For any other sufficient reason.

It is stipulated that no appeal has been preferred against the order sought to be reviewed.

8. The tariff order dated 23.03.2023 passed in Case No.80 of 2022 was pronounced by the Commission after hearing all the parties and stakeholders. For the sake of clarification, it is to be stated here that once the OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2022 has been brought into force, the earlier OERC Distribution (Condition of Supply) Code, 2019 in the matter of calculation of interest on security deposit recedes and is deemed to have been overridden. There is nothing on record to show that the said OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2022 has been challenged before any appropriate forum through appropriate proceedings. The Commission is also bound by the OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply

Tariff) Regulations, 2022 in the matter of determination of rate of interest on security deposit of the consumers.

In this context, a reference may be made to the Regulation 3.7.11 of the OERC (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2022 which stipulates as hereunder:

*“The Distribution Licensee(s) shall adjust interest on the amount held as security deposit (held in cash or cash equivalent) from Distribution System Users and Retail consumers at the Bank Rate as on 1<sup>st</sup> April of the Financial Year in which the petition is filed in their monthly bills.*

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xxx.”

9. The defining clause “Bank Rate” as per 1.2.1 (9) of the aforesaid Regulations, 2022 provides as follows:

*“(9) “Bank Rate” shall mean the Bank Rate declared by the Reserve Bank of India from time to time.”*

10. The contention of the Review Petitioner that CERC Tariff Regulation, 2014 which defines the Bank Rate as the base rate of interest as specified by State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points has no application in the instant case as far as the Distribution Tariff is concerned. The CERC Regulations are related to determination of Generation and Transmission Tariff for Central Sector Utilities only.
11. On consideration of the averments of the Review Petitioner, we find that the issue raised by the Review Petitioner does not fall within the restrictive ambit of review provisions as elucidated in the forgoing paragraphs. In the facts and circumstances as stated in earlier paragraphs, the Commission finds no merit on the points raised by the petitioner in his application and accordingly the application is rejected.
12. In the result, the case is dismissed.

Sd/-

Sd/-

Sd/-

**(S. K. Ray Mohapatra)**  
**Member**

**(G. Mohapatra)**  
**Member**

**(S. C. Mahapatra)**  
**Chairperson**