



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

R. P. (SR) No. 66 of 2021

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I. A. (SR) No. 85 of 2021

in

O. P. No. 14 of 2021

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I. A. No. 5 of 2021

Dated 09.02.2022

Present

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

Transmission Corporation of Telangana Limited ... Review Petitioner.

The review petition came up for virtual hearing through video conference on 24.01.2022 and 02.02.2022. Sri Vivekananda, CE (RAC & Comml.) and Sri C.Srinivasa Rao, JMD (Finance, Comml. & HRD) have appeared for review petitioner on 24.01.2022 and on 02.02.2022 respectively. The review petition having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

The Transmission Corporation of Telangana Limited (TSTransco or Review petitioner) has filed the review petition (RP) under Section 94(1)(f) and Section 62 of the Electricity Act, 2003 read with Clause 32 of the TSEERC (Conduct of Business) Regulation, 2015 [Regulation No.2 of 2015] on 02.12.2021 seeking review of the Commission Order dated 02.09.2021 in O.P.No.14 of 2021 and I.A.No.5 of 2021 in the matter of Annual Performance Review (APR or True up) for FY 2019-20 for

SLDC activity of TSTransco filed in compliance of directive No.5 of order dated 02.03.2020 on annual fee and operating charges for SLDC for 4th control period (FY 2019-20 to FY 2023-24) read with Regulation No.1 of 2006 as adopted by the Commission in TSERC (Adoption) Regulation No.1 of 2014.

2. The Commission in its Order dated 02.09.2021 in O.P.No.14 of 2021 & I.A.No.5 of 2021 carried out the APR for FY 2019-20 of SLDC activity of TSTransco. The review petitioner filed the instant review petition seeking review of the said Order with the following prayers:

- “a) to consider the instant review Petition of TSTransco and to take on record.
- b) to review the order dated 02-09-2021 passed in Petition, O.P.No.14 of 2021 and I.A.No.5 of 2021 and allow the sums (Rs.2.05 crore) disallowed towards Capital Cost for replacement of age-old fixed assets.”

3. The review petitioner also filed an Interlocutory Application (IA) seeking condonation of delay in filing the review petition and sought the following prayer in

I. A:

- “a) to Condone the delay, if any, in filing the review petition against the order dated 2nd September 2021 in Petition O.P.No.13 of 2021, in terms of Section 32(1) of TSERC (Conduct of Business) Regulations, 2015 (Regulation No.2 of 2015), in view of obtaining administrative approval of our management.
- b) to take the instant Interlocutory Application for condoning the delay in filing of review petition seeking Review of the Commission’s Order dated 02-09-2021 in petition O.P.No.13 of 2021 of Annual Performance Review (True Up) for the FY 2019-20 of Transmission business of TSTRANSCO, on record.
- c) to consider the reasons mentioned under the circumstances submitted”

4. The contentions of the review petitioner in the review petition are as under:
- a. TSTransco has filed APR towards true-up of SLDC activity for FY 2019-20 on 20.03.2021 in compliance to directive No.5 of Multi-Year-Tarif (MYT) for 4th control period (i.e., for FY 2019-20 to FY 2023-24).
 - b. The Commission has passed APR Order on 02.09.2021 in O.P.No.14 of 2021 & I.A.No.5 of 2021 in respect of SLDC activity and approved pass through amount of Rs.0.04 crore as surplus against claim of Rs.2.01 crore (deficit) filed by TSTransco based on audited values of FY 2019-20.
 - c. TSTransco has decided to file a review petition against APR Order as per clause 32 of TSERC Regulation No.2 of 2015 and accordingly completed its financials for FY 2020-21 without considering adjustments towards true down as per APR order.
 - d. TSTransco had claimed the amount of Rs.2.05 crore towards Capital Cost, as per Regulation No.1 of 2006 to recover the repayment of principal and interest on actual investments made. The Commission had disallowed the same, taking a view that the Capital cost shall cover the repayment of principal amount and payment of interest on investments in a year, plus any residual component of past investments and since the TSTransco has not availed loan during FY 2019-20 and past loans have been closed.
 - e. Government of Telangana State (GoTS) vide G.O.Ms.No.9 dated 17.09.2014 notified that SLDC shall be operated by TSTransco, which has been notified as State Transmission Utility (STU) and SLDC activity is maintained with no profit no loss basis as such there are no surplus funds available with TSSLDC for funding its investments.
 - f. The investments in SLDC activity for FY 2019-20 have been met from TSTransco and the same are repayable to TSTransco, out of annual charges collected through SLDC activity.
 - g. TSTransco has claimed a sum of Rs.2.05 crore as Capital Cost in order to have funds for replacement of fixed assets (as depreciation) and future investments, as, TSSLDC had not availed any new loans for

capital investments during FY 2019-20 and there were no outstanding loans of earlier years repaid for the year.

- h. Further, the process of depreciation allows a company to recover the total capital cost including investment over its life span instead of recovering the same immediately. The depreciation allows to replace fixed assets and funding for future investments using appropriate amount towards capital cost.
- i. Disallowance of capital cost towards depreciation on fixed assets of TSSLDC for FY 2019-20 will have an impact on collection of annual fee and which affects funding of future investments in SLDC activity.
- j. In view of the above, the Commission may allow the depreciation on fixed assets as Capital Cost so as to utilise the same for replacement of fixed assets / investments in SLDC activity. The Commission may also issue appropriate directions for recovery of the said amount.

5. The Commission heard the representatives 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 proceeding dated 24.01.2022

“The representative of the review petitioner stated that the Joint Managing Director of the petitioner company is not well and is unable to attend the hearing. He sought adjournment of two weeks in the matter. Commission notices that the matter is required to be decided expeditiously before determination of retail supply tariff. Accordingly, the matter is adjourned.”

Record of proceeding dated 02.02.2022

“... .. The representative of the review petitioner stated that the Commission, while allowing the petition for annual performance of FY 2019-20 for SLDC activities, had refused to consider a small amount relating to capital expenditure, which was borrowed from TSTransco. The said amount has to be repaid to the TSTransco. Deducting the said amount would adversely effect its operations in maintaining the grid by procuring the necessary standard equipment for present and future operations. Therefore, he sought

review of the order of the Commission and to rectify the amounts refused in the annual performance petition. The Commission passed order on the annual performance on September, 2021 and the petition is filed in November, 2021 and there is a delay of few days in filing the review petition. The Commission may condone the delay in filing the review petition. The representative of the review petitioner sought admission of the review petition by condoning the delay, as also taking up the matter for review.”

6. The Commission considered it appropriate to decide the I.A. seeking condoning the delay in filing the review petition at 1st instance before proceeding to decide the review petition.

7. The Clause 32 (1) of the Regulation No.2 of 2015 specifies the time period of 75 days for filing of review petition from the date of the order and the Commission may allow a further period of 30 days beyond the 75 days on production of sufficient cause for filing the review petition. In the instant case, the time period of 75 days from the date of issue of APR Order dated 02.09.2021 lapses on 16.11.2021, the review petitioner has not filed the review petition within this date, whereas the actual date of filing of review petition falls within the extendable period of 30 days.

8. The review petitioner has filed I. A. for delay condonation citing the administrative approvals. The Commission expresses profound regret on the nonchalant manner of the review petitioner in citing the administrative reasons for delay in filing of review petition. Nevertheless, the Commission opines that the review petitioner should be provided an opportunity for putting forth his case. It is also the fact that the review petition will be decided after hearing on merits and therefore, the Commission condones the delay in filing the review petition.

9. Now, the point arise for consideration in this matter is –

‘Whether the APR order dated 02.09.2021 in O.P.No.14 of 2021 and I.A.No.5 of 2021 in the matter of Annual Performance Review (APR or True up) for FY 2019-20 for SLDC activity of TSTransco, is liable for review as sought by the review petitioner?’

10. The Commission’s view regarding allowing the capital cost in its Order on APR for FY 2019-20 is as under:

“4.2.2 The Commission directed the Applicant to submit the details of actual capital investments vis-à-vis the approved investments during FY 2019-20 under the heads of Grid Operation, Commercial, Energy Billing Centre, Telecom, and Power Systems along with means of finance for the same. In reply, the Applicant submitted the details of investments made during FY 2019-20, which were financed through equity. Further, in the reply, the Applicant has submitted that existing loans were closed in March 2019 and it did not avail any long-term loan during FY 2019-20.

4.2.3 Clause 4.3 of the Regulation No.1 of 2006 stipulates that the Capital Cost shall cover the repayment of principal amount and payment of interest on investments in a year, plus any residual component of past investments. Since, the Applicant has not availed loan during FY 2019-20 and past loans have been closed, therefore, the Commission is of view that Capital Cost should not be allowed in FY 2019-20.”

11. The Commission does not find any infirmity in the order passed by it nor it calls for interference by way of review. None of the ingredients of reviewing an order as set out in Order 47 of Civil Procedure Code have been satisfied in this case. The review petitioner has not been able to show as to the following aspects for undertaking a review of the order.

- a. Where there is a typographical mistake that has crept in the order;
- b. When there is an arithmetical mistake that has crept in while effecting calculation or otherwise;

- c. 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;
- d. 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;
- e. 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;

12. In view of the above, the Commission is not inclined to review the order dated 02.09.2021 passed in O.P.No.14 of 2021 & I.A.No.5 of 2021 and accordingly the present review petition is rejected as devoid of merits.

This Order is corrected and signed on this the 9th day of February, 2022.

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