



Chhattisgarh State Electricity Regulatory Commission
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Petition No. 46 of 2017(M)

In the Matter of

“Seeking amendment of Tariff Order dated 31.03.2017 passed in P. No. 64 of 2016(T) with respect to Retail Tariff Schedule of Low Load-Factor Industries in HV-4 Steel Industries Category”.

M/s Chhattisgarh Steel Re-Roller Association ... Petitioner

V/S

Chhattisgarh State Power Distribution Co. Ltd. ... Respondent

PRESENT : **Narayan Singh, Chairman**
: **Arun Kumar Sharma, Member**

APPEARANCE : Shri Shyam Kabra for petitioner.
: Shri V.A. Deshmukh, EE for respondent.

ORDER ON ADMISSION
(Passed on 31st October, 2017)

The petitioner M/s Chhattisgarh Steel Re-Roller Association (herein-after Association or petitioner) has filed this petition for amendment of Tariff Order dated 31.03.2017 passed in Petition No. 64 of 2016(T) with respect to Retail Tariff Schedule of Low Load-Factor Industries in HV-4 Steel Industries Category. Chhattisgarh State Power Distribution Company Limited (CSPDCL) is the respondent in this petition.

2. The petitioner has stated to be a State level industrial association having membership of about 200 units out of

which about 60 member industries are closed / out of operation due to world wide economic recession, lack of infrastructural activity at Government Sector, increasing input cost, cheaper import from China and other reasons. The petitioner association represents interest of steel industries especially rolling mills at all levels to resolve the issues collectively.

- 3.** According to the petitioner, during proceedings in tariff petition No. 64 of 2016(T), the petitioner association filed it's legitimate objections in writing during the public hearing. The retail tariff for low load factor industries, which is a merged HV-4 Steel Industries, is found unreasonable as an unrealistic capping of 15% load factor has been prescribed in order to avail lower demand charge. It is believed that the Commission has prescribed the above capping on the basis of proposal made by the respondent CSPDCL in it's tariff petition without examining it's reasonability which has caused abnormal tariff increase and hardship for such low load factor industries.
- 4.** The petitioner had earlier filed a review petition i.e. petition No. 17 of 2017 for review of impugned tariff order but the same was not admitted considering the limited scope of review petition.
- 5.** As pleaded by the petitioner, the above retail tariff schedule under HV-4 category has made negative impact on efficiency, economical use of electricity and performance of steel rolling mills and has badly affected their competitiveness with

integrated steel mills having high load factor but making similar end products.

- 6.** According to the petitioner, tariff order can be amended once in a financial year and therefore, this petition is filed by the petitioner association on behalf of low load factor steel rolling mills for minor alteration or improvement in the erroneous provisions of 15% capping on load factor.
- 7.** According to the pleadings of the petitioner, the present petition is initiated under Section 94(1)(g), Section 62(4) and Section 61, 62(3) of the Electricity Act, 2003, Section 15 of the CSERC (Terms & Conditions for determination of tariff according to Multi-Year Tariff principles and Methodology and Procedure for determination of Expected revenue from Tariff and Charges) Regulations, 2015, Section 44 & 45 of the CSERC (Conduct of Business) Regulations, 2009 and Section 8.3.2 of the National Tariff Policy read with Section 61 of the Electricity Act, 2003.
- 8.** The petitioner argued in favor of admissibility of the petition and submitted that the retail tariff for the industries fall under HV-4 category and is unrealistic and violates order of the Commission passed in P. No. 14 of 2005. The tariff causes inefficient and uneconomical use of available electricity for both, the consumer and the respondent.
- 9.** The respondent objected admissibility of the petition in writing as well as in oral arguments. The respondent submitted that all the grounds taken by the petitioner in support of its claims are totally misconceived and cannot be relied upon. It is submitted

by the respondent that the petitioner association has participated in hearing held by the Commission in connection with the tariff determination. The petitioner of this petition has submitted exhaustive objections / suggestions before the Commission during the process of tariff determination but the petitioner Association did not comment on retail tariff proposal. The issue of load factor based tariff was not at all responded by the petitioner during the process of tariff determination. The petitioner had also filed a review petition against the tariff order dated 31.03.2017 which was summarily rejected by the Commission vide order dated 30.06.2017 in P.No. 18 of 2017(M). The respondent argued that the Commission has dealt every issue in tariff order with reasoning, hence a separate petition on the same issue is not permissible. The respondent has taken reliance of some judgments of Hon'ble Supreme Court in this regard.

- 10.** We have considered the pleadings and arguments of the parties. The petition mainly refers the provisions of Section 62 of the Electricity Act, 2003 with other provisions as mentioned in above para No. 7. The text of Section 62 is reproduced below:-

"Section 62. (Determination of tariff): ---

(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –

(a) supply of electricity by a generating company to a distribution licensee: Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company

and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;

(b) transmission of electricity ;

(c) wheeling of electricity;

(d) retail sale of electricity:

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

(2) The Appropriate Commission may require a licensee or a generating company to furnish separate details, as may be specified in respect of generation, transmission and distribution for determination of tariff.

(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

(5) The Commission may require a licensee or a generating company to comply with such procedures as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee."

- 11.** From the above provisions, it become quite clear that the Commission is entrusted by the Act with the job of

determination of tariff for supply of electricity by a generating company to distribution licensee, transmission of electricity, wheeling of electricity and retail sale of electricity. Further, to determine the tariff, the Commission may require a licensee or generating company to furnish separate details as may be specified; the Commission shall not show undue preference to any consumer and the tariff must be decided considering some aspects like consumer load factor, power factor, voltage, etc.

- 12.** We have determined tariff for power supply by the respondent CSPDCL to various categories of consumers after following the due regulatory procedure. Objections / suggestions from stakeholders had been obtained and considered at the time of determination of tariff. The petitioner association was given opportunity of hearing before determination of tariff. The petitioner association had also filed review petition against the order dated 31.03.2017 of the Commission, which was rejected. Now, the petitioner has sought relief of amendment in the tariff order dated 31.03.2017 regarding the HV-4 consumer category.
- 13.** It is provided in Section 62(4) of the Act that no tariff or part of any tariff may ordinarily be amended more frequently than once in any financial year. It is also true that the tariff order dated 31.03.2017 is not amended till date, but the provision does not entrust any right to any group of consumers to get amendment in tariff which is convenient to them.
- 14.** It is clear from the above provisions that the Commission can determine tariff only on getting details from any generator or

licensee and after considering the details, the Commission may determine tariff for various group of consumers. However, at the time of determination of tariff, the Commission may differentiate the consumers and groups of consumers based on load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required. We have already considered all these aspects at the time of determination of tariff. Hence, we feel no need to amend the tariff as determined for the category HV-4 of the consumers.

- 15.** The petitioner Association has failed to put appropriate facts and grounds, which may compel to consider for amendment in tariff determined earlier. Further, no suggestion has been given by the petitioner, regarding how the impact on Annual Revenue Requirement can be balanced if the tariff is amended.
- 16.** We reject the petition summarily at the stage of admission as we could not find any ground for reconsideration of determined tariff. Both parties shall bear their own costs.

Sd/-
(ARUN KUMAR SHARMA)
MEMBER

Sd/-
(NARAYAN SINGH)
CHAIRMAN