

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub :- In the matter of review of retail supply tariff for FY10-11 issued on 18th May, 2010 issued by the Commission.

ORDER

(Date of hearing 14.09.2010)

Date of order 22.09.2011

Chief Electrical Engineer, West Central Railway, Jabalpur - Petitioner

Shri Rahul Gautam, Chief Electrical Distribution Engineer, Western Central Railway appeared on behalf of Petitioner.

2. The Petitioner being aggrieved by some of the provisions of the Retail Supply Tariff Order FY 2010-11 issued on 18th May, 2010 has filed this review petition.

It has been prayed that –

- i. Fixed cost charges may be reduced to Rs.150/kVA/month from Rs.200/kVA/ month and energy charges may be reduced to Rs.4.00 per unit from Rs.4.50 per unit.
- ii. Billing demand for the month shall be actual kVA demand of the consumer during the month or 75% of the contract demand ,whichever is higher,
- iii. Power factor limit for Railway shall be made 0.85 in place of 0.90 due to variable load pattern of Railway.
- iv. To consider introducing the simultaneous maximum demand (SMD) for traction tariff purposes on similar lines as has been done by RERC.

3. The Commission held a motion hearing on 14.09.2010 and heard the arguments forwarded by the petitioner in the matter. Petitioner has also requested to condone the delay in submission of this review petition. It is requested by the petitioner to grant the prayer in subject matter as the Railways is a Central Government Public Utility organization, providing subsidized passenger services, carrying essential commodities at subsidized rates and are eco-friendly as well as energy efficient.

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4. The Commission observed that all the stakeholders including Railways were given due opportunity for submission of their suggestions/comments/objections on the petitions filed by the Distribution Companies for determination of ARR and Retail Supply Tariff for the year FY 2010-11. On the relief sought by the consumer in this Review Petition, following is observed:-

- a. Levy of fixed cost charges: - The Commission in its Approach Paper issued during the process of determination of ARR and Retail Supply Tariff for the year 2010-11 had proposed that fixed cost charges be levied on Railway Traction Tariff in accordance with the provisions of the Electricity Act, 2003. The decision to levy fixed cost charges was taken after due examination of comments received from all the stakeholders including Railways.
- b. Regarding request of Railways for levy of billing demand as minimum 75% of the contract demand instead of 90% as has been provided in the Tariff Order for the year 2009-10 and continued in the Tariff Order for the year 2010-2011, the petitioner in his petition has not provided any justified reason warranting such review. However, this issue was also discussed at the time of finalization of tariff for FY 10-11 and accordingly decided.
- c. Request for revision of limit of power factor from 0.90 to 0.85 for levy of power factor penalty if the power factor was below this limit, was also raised during the course of determination of the tariff and the response of the stakeholders as well as Commission's view have already been given in the Tariff Order for the year 2009-10 and continued in 2010-11.
- d. Introduction of Simultaneous Maximum Demand for Railway Traction connections – It was pointed out by the petitioner that the scheme of Simultaneous Maximum Demand for all the Railway Traction connections falling under the jurisdiction of the Distribution Licensee is allowed in Rajasthan by RERC. The petitioner has raised this issue in the past also. This Commission, however, after examining the relevant issues like different location of different Railway Traction connections drawing power from different Sub-Stations having separate agreements, has not found it acceptable.

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5. The petitioner during the course of hearing, referred to the constitutional provision of Article 287 as under :-

“Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorizes the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is –

consumed by the Government of India, or sold to the Government of India, for consumption by that Government; or

consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway, and any such law imposing, or authorizing the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.”

6. The Commission observed that the above Article deals with the imposition of taxes by the State Government. The Commission does not levy any tax and determines tariff as provided under various provisions of Electricity Act, 2003. Thus, the petitioner’s plea is not tenable.

7. The Commission has observed that the submissions made by the petitioner have already been examined and decided. The issues raised do not meet the prescribed grounds for review as numerated hereunder :-

- i. Discovery of new or important matter of evidence which after exercise of due diligence was not within the knowledge of the appellant or could not be produced by him, at the time when the order was made, or
- ii. Mistake or error apparent on the face of record , or
- iii. Any other sufficient reason.

8. The Commission therefore decides that review is not maintainable and accordingly, dismisses the petition.

(C.S. Sharma)
Member(Economics)

(K.K. Garg)
Member (Engg.)