



Petition No. 1696 of 2021

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Quorum

Hon'ble Shri Raj Pratap Singh, Chairman

Hon'ble Shri Kaushal Kishore Sharma, Member

Hon'ble Shri V. K. Srivasatava, Member (Law)

In the matter of:

Petition under Section 142 of the Electricity Act, 2003 for contravention of direction contained in Uttar Pradesh Electricity Regulatory Commission Order for Truing up of Tariff for FY 2018-19, Annual Performance Review (APR) for FY 2019-20 and approval of Aggregate Revenue Requirement and Tariff for FY 2020-21 (TO FY 2020-21 Dt. 11.11.2020).

Shree Cement Ltd.

12, Sikandrabad Industrial Area,
Bulandshahar, Uttar Pradesh.

..... Petitioner

Vs.

Paschimanchal Vidyut Vitran Nigam Limited
Urja Bhawan, Victoria Park
Meerut, Uttar Pradesh.

.....Respondent

The following were present:

1. Shri Amarjeet Rakhra, Counsel of UPPCL
2. Shri Amarjit, AVP, Shree Cements Ltd.
3. Shri Swapnil Mishra, Shree Cements Ltd.
4. Executive Engineer, E.D.D-1, Bulandshahar, PVVNL



17

18

19



ORDER

(Date of Hearing: 29th July, 2021)

- 1 M/s Shree Cement Limited (hereinafter referred as Petitioner) is a company engaged in the business of cement manufacturing and generation of power. The Petitioner submitted that it is a cement grinding unit in the state of Uttar Pradesh. The Petitioner is a consumer of M/s Paschimanchal Vidyut Vitran Nigam Limited (PVVNL) with a contract demand of 14.4 MVA and is availing power under Open Access facility of upto 12.24 MW through Power Exchange or from other Open Access Sources. It is the contention of the Petitioner that the Respondent, PVVNL has levied the average distribution losses retrospectively in the Open Access bills.
- 2 In the written submission dated 19th June, 2021 made by the Respondent it is submitted that the only substantive prayer made by the Petitioner relates to refund of an amount which has been allegedly charged from the consumer, in excess of the Tariff prescribed. The matter is not maintainable before the Commission as there is no jurisdiction to entertain a petition which infringes upon the commercial dispute between the licensee and individual consumer.
- 3 It is further submitted that the Commission in the Tariff Order dated 22nd January, 2019 had approved the same wheeling charges as approved in MYT Order dated 30 November, 2017. As per the provisions of Clause 7.3.6, 7.3.7 and 7.3.9 of Tariff Order dated November 30, 2017 that is quoted in Tariff Order dated January 22, 2019 for FY 2018-19, (reproduced below) the consumer would have to bear only technical losses which are to be calculated from the difference of energy received at the Transmission Substation with energy drawn at the consumer's end and the same amounts to 0.14%. Thus, it is this technical loss which has been taken into consideration for the calculation of Open Access energy reaching the consumer's end from the Transmission end. The clause 7.3.6, 7.3.7 and 7.3.9 of MYT Order dated November 30, 2017 is quoted below:

Quote

"

7.3.6. In addition to the payment of wheeling charges, the customers also have to bear the wheeling losses in kind. The Commission has been seeking voltage level loss data

1



2

2



from the utility but the same has not been forthcoming. Further, it is also logical that the open access customers have to bear only the technical losses in the system, and should not be asked to bear any part of the commercial losses.

7.3.7 The Commission has considered the wheeling loss applicable for Open Access transactions entailing drawl at 11 kV voltage level as 8%, and that for drawl at voltages above 11 kV voltage level as 4% which is in line with the approach adopted by the Commission in its Tariff Order for FY 2016-17 as well as submitted by Petitioners during the proceedings in the matter of ARR / Tariff determination of FY 2017-18 to FY 2019-20.

7.3.8 The open access charges and the losses to be borne by the Open Access customers may be reviewed by the Commission on submission of the relevant information by the Licensees.

7.3.9 The wheeling charges determined above shall not be payable if the Open Access customer is availing supply directly from the state transmission network.

“

Unquote

Similarly for the bill prepared between September 2019 to 20.11.2020, the same has been prepared as per the Tariff Order for FY 2019-2020, wherein there were identical provisions as contained in the Tariff Order for the Financial Year 2018-2019. The imposition of wheeling losses of 0.18% in the bill of the consumer from November 2020 onwards, is as per the Tariff Order dated 11th November, 2021 for the FY 2020-2021.

- 4 In the written submission dated 07th July, 2021 by the Petitioner it is submitted that present petition filed by the Petitioner is on the grounds of non-compliance of the Orders of the Commission and not on the matters related to billing disputes of individual customers. The Petitioner also submitted that it is not contesting that the Average Distribution Losses of 0.18% are applicable from the date of applicability of Tariff Order for the period 2020-21 of the Commission.
- 5 The Petitioner has further submitted that the technical losses of 0.14% have been levied by the Distribution Licensee on the Petitioner for the period prior to 20.11.2020 which were neither petitioned nor determined and approved by the Commission. In the Tariff

*



[Handwritten signature]

[Handwritten signature]



Orders for FY 2018-19 and FY 2019-20, nowhere it is mentioned that the technical losses to be borne by an Open Access Consumer, drawing power of 132 KV level can be determined and imposed by the Distribution Licensee.

- 6 It is further submitted that levy of 0.14% losses on the Petitioner is clear violation of Section 86 (1)(a) of the Electricity Act 2003. As per Section 86 (1)(a) of the Electricity Act 2003, the power to determine tariff for wheeling vests with the State Commission and not with any Distribution Licensee.
- 7 Also, in the Tariff Petition filed by the Distribution Licensee for FY 2019-20, the Distribution Licensee has not submitted a prayer/request for determination of technical losses of 0.14% before the Commission. Therefore, in absence of any approved and determined technical losses by the Commission, levy of any technical losses on the Petitioner is unjustifiable and thus illegal.

Commission Analysis:

- 8 The Commission while taking into consideration the submissions made by both the parties noted that the loss of 0.14% for the period being covered by the Tariff Order for FY 2018-19 has been considered in the bill. In the written submission by the Respondent, the losses being considered for the applicability of the Tariff Order dated 03rd September, 2019 for FY 2019-20 are not mentioned. However, the respondent has raised the bills from 18th November, 2021 onwards considering the loss of 0.18%, as approved by the Commission in Tariff Order dated 11th November, 2020 for FY 2020-21. Based on the above, the submission of the Respondent can be summarized as below:

Year	Loss (%)	Details
FY 2018-19	0.14%	Not provided in the Tariff Order
FY 2019-20	Not mentioned in written submission	Not provided in the Tariff Order
FY 2020-21	0.18%	Approved in Table No. 7-12 in Tariff Order dated 11 November, 2020

14



11

2



- 9 Although the licensee has given explanation that different losses have been considered for different periods, the licensee needs to justify and explain the Commission on what basis the losses have been determined and applied retrospectively which were not even approved by the Commission. The Commission provides an opportunity to the respondent to clarify within three weeks and to provide details of the provisions/ Order of the Commission under which the losses have been retrospectively levied on the Petitioner for the disputed period.
- 10 The Commission also observed that the existing proceedings relate only to the non-compliance of the Orders of the Commission under Section 142 of the electricity Act 2003 and not resolution of any billing dispute.
- 11 The matter to be listed for 02nd September, 2021.

(V.K. Srivastava)

Member

(Kaushal Kishore Sharma)

Member

(Raj Pratap Singh)

Chairman

Place: Lucknow

Dated: 09.08.2021



