

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:-

Thiru S.Akshayakumar **Chairman**

and

Thiru.G.Rajagopal **Member**

M.P.No.15 of 2014

Tamil Nadu Generation and Distribution Corporation Ltd.
Represented by Chief Financial Controller / Revenue
144, Anna Salai
Chennai – 600 002.

... **Petitioner**

Vs.

Nil

.... **Respondent**

Dates of hearing : **19-02-2014, 30-06-2014, 26-12-2014 and
27-04-2015**

Date of order : **06-01-2016**

The M.P.No.15 of 2014 filed by TANGEDCO came up for final hearing on 27-04-2015. The Commission upon perusing the above petition and the connected records and after hearing the submissions of the Petitioner passes the following order:-

ORDER

1 Prayer of the Petitioner in M.P.No.15 of 2014:-

1.1. The Prayer of the Petitioner in M.P.No.15 of 2014 is to approve the scheme of waiver of BPSC in respect of certain categories of consumers / persons requiring reconnection of electricity service, granting of new service connection and for the purpose of regulating the service connections in whose case violation / unauthorized use / theft has been detected whether such services are under disconnection or

under reconnection in view of court orders, as one time measure and to pass such other or further orders as the Commission may deem fit and proper.

1.2. The prayer in Para 1.1 above, has been modified by the Petitioner vide Additional Affidavit dated 17-03-2015 as below:-

The Commission may be pleased to issue orders by accepting the proposal of waiver of BPSC for the 123 cases mentioned in the Annexure involving a sum of Rs.1917.22 lakhs towards current consumption charges and a sum of Rs.4078.47 lakhs as accumulated BPSC as on 30-04-2014 and also to permit the scheme to continue for another 6 months from the date of issuance of the order so that more number of willing consumers could avail the scheme and the TANGEDCO can also realize the legitimate revenue and pass such further and other orders as may be deemed just and proper.

2. Submissions of the Petitioner in the Affidavit dated 13-01-2014:-

2.1. TANGEDCO was incorporated on 01-12-2009 and the certificate for commencement of business was obtained on 16-03-2010. The TANGEDCO addressed the Commission on 25-01-2010 to make necessary amendments to the Tamil Nadu Electricity Supply Code to provide for waiver of BPSC, as there was no specific provision in the said Code enabling the TANGEDCO to consider the requests of the consumer to waive the Belated Payment Surcharge.

2.2. In the Terms and Conditions of Supply of Electricity, which were followed prior to the Tamil Nadu Electricity Supply Code there were provisions to waive the BPSC as follows:-

“However, in deserving cases, the Chairman may examine and waive the interest charges if the consumer willingly comes forward to pay the compensation charges, penalty, etc. which were pending for payment due to litigation or any dispute, provided, the consumer withdraws the court case if any pending in the court of law”.

2.3. In clause 20.09 of the Terms and Conditions, it was further provided that the Chairman, Tamil Nadu Electricity Board shall have powers to waive the levy of Belated Payment Surcharges for Government Depts. in deserving cases if such waiver becomes unavoidable.

2.4. In Clause 21.03 of the Terms and Conditions, it was also mentioned that in respect of other charges billed separately like compensation charges, penalty etc. if the charges are not paid within the period specified in the bill, interest will be charged at 1.5% per month on the amount to be paid.

2.5. The Commission had therefore been requested by TANGEDCO that if a similar provision for waiver of BPSC with some modifications are made available in the Tamil Nadu Electricity Supply Code by suitable amendments, then TNEB can collect several long pending dues of CC charges from disconnected services (Govt. / Local Body / and Private), live services (Govt. / Local body) by waiving the BPSC and avoiding the CC charges becoming bad debts. Further the consumers who wanted to revive the industry could also be given reconnection. The draft amendment to insert a new clause (xii) as below after the existing clause (xi) in Regulation 5 (4) of the said Code has also been proposed:-

“The Belated Payment Surcharge may be waived by the Licensee in deserving cases, so as to recover long pending arrears.”

Pursuant to the same, the Secretary of the Commission vide letter dated 03-03-2010 requested the TNEB to spell out detailed guidelines for waiver of BPSC in deserving cases.

2.6. The connected issues were therefore discussed internally and certain guidelines were suggested and as directed by the Commission a petition in M.P.No.1 of 2011 was filed before the Commission for waiver of BPSC, after getting approval from the Board in its 934th meeting held on 08-06-2010.

2.7. The Commission was pleased to dismiss the said M.P.No.1 of 2011 on 23-03-2011, with the following observations:-

“TANGEDCO’s petition M.P.No.1 of 2011 for waiver of Belated Payment Surcharge in deserving cases was taken up for hearing. The TANGEDCO has proposed an amendment to section 5 (4) of the Tamil Nadu Electricity Supply Code, 2004 of the Commission. An amendment to the Supply Code would institutionalize indiscipline among the consumers and would encourage consumers to delay payment, if they are hopeful that belated payment surcharge would be waived. Therefore, the Commission is not in favour of this permanent amendment to the Supply Code. However, the Commission would be willing to consider favorably a ‘one time’ amnesty scheme for all defaulting consumers. TNEB may file a fresh petition indicating the terms and conditions for such ‘one time’ remedy after obtaining their Board’s approval and file a fresh petition. This petition is dismissed”.

2.8. The proposal to approach the Commission along with a note was put up to the TANGEDCO’s Board of Directors in its meeting held on 30-10-2013 stating the following facts to justify for the waiver of BPSC. There are about 100 cases in respect of HT and about 1000 cases in respect of LT services are in disconnection

status for a long period due to non-payment of CC charges / audit shortfall etc. The officials in the Distribution circles are unable to recover the arrears from the disconnected services including for the reason that the owners of the service connections not available locally. By waiver of the BPSC, the TANGEDCO could realize the outstanding CC charges and audit amount and settle the long pending issues and that it may be a win-win concept. The “no dues certificate” can be issued by TANGEDCO and the consumer / prospective consumer can apply for a new service connection and that by effecting new service connections, the TANGEDCO will get additional revenue by sale of power and collections of Miscellaneous charges like Development charges, Security Deposit, Meter Caution Deposit etc. The Board of Directors approved the proposal in the meeting held on 30-10-2013.

2.9. The following are put up for the consideration of the Commission:-

(A) The general conditions common to all categories of consumers / persons who seek waiver of BPSC under the scheme may be fixed as follows:-

- (i) The scheme of waiver of BPSC shall be a one time measure.
- (ii) The scheme of waiver of BPSC shall be in force for a period of six months from the date of order of the Commission.
- (iii) The application for waiver of BPSC should be made in writing within the said six months along with an undertaking to pay the outstanding dues in one lump sum immediately without any demur.
- (iv) On the date of application, the consumer / person who seeks waiver of BPSC should satisfy the eligibility conditions specified in clause (B) of the scheme.
- (v) The consumers / persons who have raised litigations as against the dues, either for the current consumption charges or for the amount assessed for the

violation / unauthorized use of electricity / theft of electricity, shall execute an undertaking that (i) he will abide by the final decision taken by the competent authority of the TANGEDCO as per the scheme for waiver of BPSC in force; and (ii) that, on obtaining the order of waiver of BPSC, he will make the payment in one lumpsum in terms of the order of waiver of BPSC and simultaneously he will withdraw the litigation at once without any demur.

(B) Eligibility Conditions:

(i) **Category-I: Consumers / persons requiring reconnection:-**

(a) The maximum time limit for reconnection as prescribed under regulation 22 of the Tamil Nadu Electricity Supply Code should not have been exceeded as on the date of application for waiver of BPSC made within the period of the scheme in force.

(b) However, in the case of HT service, a minimum period of eligibility to apply for waiver under the scheme may be fixed as 3.5 years from the date of disconnection of the service and, in case of LT service, the minimum period of eligibility may be fixed as 1.5 years from the date of disconnection of the service.

(ii) **Category-II - Consumers / persons not requiring reconnection:-**

The minimum and maximum limit for eligibility to make application for waiver of BPSC under the scheme may be 3.5 years and 25 years, respectively, from the date of disconnection of service for both HT and LT services and such application should be made within the period when the scheme is in force.

(b) After payment of all dues except BPSC under the scheme, such consumers are eligible for new service connection only.

(iii) Category-III: Consumers / persons in whose services violations / unauthorized use of electricity / theft of electricity is detected, whether the service is under disconnection or the service is under reconnection in view of the orders of the Court:

(i) Irrespective of the date of disconnection / date of detection of violation / unauthorized use of electricity / theft of electricity, a consumer / person may apply for waiver of BPSC under the scheme during the period when the scheme is force.

(c) The Superintending Engineers of the Distribution Circle concerned will analyze such applications on case to case basis and will send the proposal to the office of the Chief Financial Controller / Revenue through the Chief Engineer of the distribution region concerned. After scrutiny, the office of the Chief Financial Controller / Revenue will submit the waiver proposal for approval of the competent authority as detailed below:-

- (i) If the waiver amount involved is : Chairman-cum-Managing Director / upto Rs.25 lakhs TANGEDCO.
- (ii) If the waiver amount involved is : Board of Directors of the exceeding Rs.25 lakhs TANGEDCO

3. Further submissions made in Affidavit dated 30-06-2014:-

3.1. When the above M.P.No.15 of 2014 came up for admission before the Commission on 19-02-2014, the Commission has directed the TANGEDCO to file affidavit with regard to the following:-

- (i) The list of outstanding CC charges and corresponding BPSC
- (ii) Who are all eligible?
- (iii) The financial implication of the decision.
- (iv) Propose the scheme with complete details.

3.2. Details on the above issues are furnished below:-

(i) Issue No.1 – List of outstanding CC Charges:-

The long pending outstanding CC arrears works out to Rs.17.62 crores from consumers (about 120 Nos.) and the corresponding BPSC amount works out to Rs.46.39 crores (approx.).

(ii) Issue No.2:-

The eligibility conditions as proposed in paragraph 2.9 (B) are reiterated in the present affidavit also.

3.3. Issue No.3:

So far 27 consumers have given their option to pay the CC arrears in one lump sum and avail the BPSC waiver. If the said cases are favourably considered by the Commission, Rs.1.37 crores, cc arrears would be collected and BPSC of Rs.5.73 crores have to be waived. Further, it is estimated about another 50 cases with CC arrears of Rs.7 crores (approx.) will come forward to settle the CC dues and the corresponding BPSC to be waived would be Rs.20 crores (appx). Moreover the long pending issues will get reduced by this scheme.

3.4. Issue No.4: Scheme Proposal

The general conditions common to all categories of consumers / persons who seek waiver of BPSC under the scheme may be fixed as follows:-

- (i) The scheme of waiver of BPSC shall be a one time measure.
- (ii) The scheme of waiver of BPSC shall be in force for a period of six months from the date following the date of order of the Commission.

- (iii) The application for waiver of BPSC should be made in writing within the said six months along with an undertaking to pay the outstanding dues in one lump sum immediately without any demur.
- (iv) On the date of application, the consumer / person who seeks waiver of BPSC should be eligible under the scheme and satisfy the eligibility conditions specified as proposed above.
- (v) The consumers / persons who have raised litigations as against the dues, either for the current consumption charges or for the amount assessed for the violation / unauthorized use of electricity / theft of electricity, shall execute an undertaking that (i) he will abide by the final decision taken by the competent authority of the TANGEDCO as per the scheme for waiver of BPSC in force; and (ii) that, on obtaining the order of waiver of BPSC, he will make the payment in one lumpsum in terms of the order of waiver of BPSC and simultaneously he will withdraw the connected litigation at once without any demur.

4. Additional submissions made by the Petitioner in Affidavit dated 17-03-2015:-

4.1. The Commission in the hearing held on 26-12-2014 had pointed out certain defects in the amount mentioned in the accumulated BPSC column of the list of defaulters of current consumption charges and directed to file a corrected list of arrears of CC charges. Hence, a revised / corrected list of 123 consumers is submitted for the consideration of the Commission.

4.2. The scheme may be permitted for another 6 months duration from the date of the order so that more number of willing consumers could avail the scheme and the TANGEDCO can also realize the legitimate revenue due to the TANGEDCO.

4.3. The scheme may be ordered accepting the proposal for waiver of BPSC for the 123 cases mentioned in the Annexure in respect of which a sum of Rs.1917.22 lakhs is pending towards current consumption charges and a sum of Rs.4078.47 lakhs pending as accumulated BPSC as on 30-04-2014. The scheme may be allowed to be continued for another 6 months from the date of issue of the order so that more number of willing consumers could avail the opportunity under the scheme and the TANGEDCO can also realize the legitimate revenue.

5. Findings of the Commission:-

The TANGEDCO in its Petition has requested to approve the Waiver of BPSC with the following eligibility conditions and based on the amount involved as dues of CC arrears.

The Consumers opting to come under the Scheme of Waiver of BPSC has been categorized under three categories:

1. Category – I : Consumers/persons requiring reconnection.
2. Category – II : Consumers/persons not requiring reconnection.
3. Category –III : Consumers/persons in whose services violations/ unauthorized use of electricity/theft of electricity is detected, whether the service is under disconnection or the service is under reconnection in view of the Orders of the Court

Category : I

In respect of consumers/persons requiring reconnection:

In respect of the eligibility conditions for considering any consumer/person shall not exceed the maximum period for reconnection as stipulated in Regulation 22

of the TNE Supply Code as on the date of application for waiver of BPSC made within the period of the scheme in force.

The minimum period of eligibility to apply for waiver under the scheme is fixed as 3.5(three and half) years from the date of disconnection in respect of HT services and 1.5(one and half) years from the date of disconnection in respect of LT services.

Category II:

In respect of Consumers /persons not requiring reconnection:

The minimum and maximum limit for eligibility to make application for waiver of BPSC under the scheme may be 3.5(three and half) years and 25(twenty five) years respectively, from the date of disconnection of service for both HT and LT services and such application should be made within the period when the scheme is in force.

After payment of all dues except BPSC under the present scheme, such consumers are eligible for new service connection only.

Category III:

Consumers /persons in whose services violations / unauthorized use of electricity / theft of electricity is detected, whether the service is under disconnection or the service is under reconnection in view of the orders of the Court:

- (i) Irrespective of the date of disconnection / date of detection of violation / unauthorized use of electricity / theft of electricity, a consumer / person may apply for waiver of BPSC under the scheme during the period when the scheme is in force

During operationalization of the scheme, the TANGEDCO can approve the waiver proposal as per the procedure proposed by them in their petition to realize the long pending arrears in order to clear the arrears of CC Charges.

For the consumers/persons who satisfy any one of the above eligible conditions can apply under the scheme of waiver of BPSC. The general conditions common to all categories shall be as follows:

1. The scheme of waiver of BPSC shall be a one-time measure.
2. The scheme of waiver of BPSC shall be in force for a period of six months from the date following the date of Order of the Commission.
3. The application for waiver of BPSC should be made in writing within the said six months along with an undertaking to pay the outstanding dues in one lump sum immediately without any demur.
4. The consumers / persons who have raised litigations as against the dues, either for the Current Consumption Charges or for the amount assessed for the violation / unauthorized use of electricity / theft of electricity, shall execute an undertaking that (i) he will abide by the final decision taken by the competent authority of the TANGEDCO as per the scheme for waiver of BPSC in force; and (ii) that, on obtaining the order of waiver of BPSC, he will make the payment in one lumpsum in terms of the order of waiver of BPSC and simultaneously he shall withdraw the connected litigation at once without any demur.

Commission cannot go into each case and give approval case by case. However, it can give approval for the scheme *per se* for a specified time period. Accordingly, the present scheme of waiver of BPSC is approved as a one-time measure to facilitate recovery of Current Consumption Charges which is due to

TANGEDCO for a period of six months from the date following the date of Order of the Commission.

With the above Orders, the M.P.No.15 of 2014 is disposed off.

6. Appeal:-

An appeal against this order shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act, 2003 within a period of 45 days from the date of receipt of a copy of this order by the aggrieved person.

(Sd.....)
(G.Rajagopal)
Member

(Sd.....)
(S.Akshayakumar)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission