

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

PRESENT:

ThiruM.Chandrasekar Chairman
Dr.T.PrabhakaraRao Member
and
Thiru.K.Venkatasamy Member (Legal)

D.R.P. No.1 of 2014

M/s. Suryadev Alloys and Power Pvt. Ltd.
No.2 & 4, Golden Enclave
4th Floor, 184, Poonamallee High Road
Kilpauk
Chennai – 600 010

... Petitioner
(ThiruK.Seshadri
Advocate for the Petitioner)

Vs.

1. The Director / Operation
TANTRANSCO
144, Anna Salai
Chennai – 600 002.
2. The Superintending Engineer
LD & GO
144, Anna Salai
Chennai – 600 002.
3. The Superintending Engineer
Chennai Electricity Distribution Circle / North
144, Anna Salai
Chennai – 600 002.

... Respondents
(ThiruM.Gopinathan,
Standing Counsel for Respondents)

Dates of hearing : 19-02-2014; 21-03-2014; 11-07-2014;
06-08-2019; 05-09-2019; 24-09-2019

Date of Order : 28-01-2020

The DRP No. 1 of 2014 came up for final hearing on 24-09-2019. The Commission upon perusing the affidavit filed by the petitioner, counter affidavit filed by the respondent, written submission filed by the respondent and all other connected records and after hearing both the parties passes the following:-

ORDER

1. Prayer of the Petitioner in DRP No.1 of 2014:-

The prayer of the Petitioner in the above DRP No. 1 of 2014 is to fix the charges/tariff payable by the Petitioner towards EMD, Development Charges, Service connection charges and Meter caution Deposit, by the Commission and consequently direct the Respondents to refund the excess amounts collected unauthorisedly with interest as contemplated under section 62(6) of the Electricity Act, 2003 and with cost.

2. Facts of the case:-

The Petitioner M/s.Suryadev Alloys and Power Pvt. Ltd have proposed to establish 2x 80 MW capacity coal based power plant at Gummidipoondi. As per the original load flow study results, the power plant has to be connected to the proposed 400 KV Thervoikandigai SS and the transmission scheme of 230 KV SC line from the power plant to the proposed 400 KV Thervoikandigai SS has been finalised. However, the Petitioner had informed that their trial run was scheduled on August 2012 and the establishment of Thervoikandigai 400 KV SS would not match with the commissioning of their plant and hence requested temporary connectivity.

Once Thervoikandigai 400 KV SS is commissioned, the Petitioner power plant has to be connected permanently as per the original load flow study recommendations.

The Petitioner requested for temporary connectivity and was accorded by making LILO arrangement in 230KV Gummidipoondi – Sripermpudur tie feeders until the commissioning of Thervoikandigai 400 KV Substation by the 2rd Respondent subject to the specific conditions in their Ir no. Dir/O/SE/LD&GO/EE/AEE2/OA/F.Suryadev/D.631/12 dt 29-03-2012.

3. Contentions of the Petitioner:-

3.1. This petition is being filed seeking orders of the Commission for the payment of EMD, Development charges, Service connection charges and meter caution Deposit by the Petitioner for getting supply for start up purpose when the Respondents have not laid any new lines for the supply of electricity as contemplated under Section 43 of the Electricity Act, 2003.

3.2. The Petitioner had established 2x 80 MW coal based captive generating plants at new Gummidipoondi, Thiruvallur District. The Petitioner has also obtained grid connectivity from the Respondents by LILO temporary arrangement in the existing 230KV Gummdipoondi-Sriperumpudur line, while granting grid connectivity, the Petitioner has also been directed to maintain the temporary LILO portion of the temporary connectivity line till Thervoikandigai 400 KV SS is commissioned and the Petitioner has to complete the lines laying work from their generating plants to 400 KV SS Thervaikandigai within 18 months.

3.3. The 3rd Respondent has raised a demand for the payment of Rs.52,00,500/- towards Registration Fees and Earnest Money Deposit for extending EHT supply

for a maximum demand of 6.5 MVA in Lr.No.SE/CEDC/N/AEE/DEV/AE/D2/FHT Suryadev start-up pwr/D106/13 dt 24.01.2013.

3.4. The Petitioner further submitted that the 3rd Respondent in his Letter No SE/CEDC/N/AEE/DEV/AE/D2/F.EHT Suryadevstart uppwr/D144/13 dt 31.1.2013 had requested to pay a sum of Rs. 22,75,000/- towards development charges of Rs. 2500/- as Service connection charges and Rs. 1,00,000/- towards Meter Caution Deposit with a direction to execute the agreement by the Petitioner for availing EHT supply for start up purpose to be used by the Petitioner during outages. The said amount had been paid on 24.1.2013 and 31.1.2013 respectively.

3.5. The Petitioner being the generator of electricity they need not have a separate service connection for start up power of generator during outages. The generator's evacuation lines will facilitate the import of electricity for start-up purpose from the Respondent's grid. It is understood that the EMD charges, Service Connection charges and Meter Caution Deposit have been claimed without the approval of the Commission and the same amounts are not approved by this Commission under Non- tariff related Miscellaneous charges. The ABT meter fixed at the export of power point can also be used for recording import of power by the Petitioner.

3.6. The 3rd Respondent has collected the EMD, Development charges, Service connection charges and Meter caution Deposit without executing any work for erecting lines and effecting supply to the Petitioner. The said amounts are collected treating the Petitioner as a consumer of TANGEDCO.

3.7. The 3rd Respondent has failed to consider the Petitioner as a generator to whom no separate HT supply is necessary.

3.8. The 3rd Respondent has collected huge amounts without the approval or orders of this Commission under relevant orders.

3.9. The 3rd Respondent has erred in treating the Petitioner as an ordinary HT Consumer applying Distribution Code and Supply code 2004 for collecting the above charges.

4. Contentions of the Respondents:-

4.1. In the written submissions the Respondents have stated that the Petitioner's request for temporary connectivity had been considered subject to the specific conditions mentioned as below in the Lr.No.Dir/O/SE/ LD&GO/EE/AEE2/OA/F.Suryadev/D.631/12 dated 29.3.2012.

- (a) The 2x 80 MW generators of M/s. Suryadev will be permitted for temporary connectivity subject to Grid condition and corridor availability at the time of pumping of power.
- (b) Once Thervakandigai 400KV SS is commissioned, the Generator has to be connected permanently as per original load flow study.
- (c) The above company have to establish, operate and maintain the dedicated transmission lines as per Sec.10(1) of Electricity Act, 2003, the expenditure including the Supervision charges for both the temporary and permanent connectivity has to be borne by the Company.

- (d) The company has to bear the recurring maintenance cost of bay equipments and the rental charges for the bay and also to maintain the dedicated transmission line for both temporary and permanent connectivity.
- (e) The company has to back down their generation due to evacuation constraints or grid requirements and shall not claim any reimbursements from TANGEDCO/TANTRANSCO for backing down of their generation during the temporary connectivity period or while establishing permanent connectivity.
- (f) Based on the temporary approval and as per sec 10(1) of Electricity Act, 2003, which states that “The duties of a generating company shall be to establish, operate and maintain generating stations, tie lines, sub-stations and dedicated transmission lines connected therewith in accordance with the provisions of this Act or the Rules or Regulations made thereunder”, the Petitioner company has established the dedicated transmission line towards temporary connectivity.

4.2. At the verge of completion of the dedicated transmission lines towards temporary connectivity, the Petitioner have requested High Tension supply for a permitted maximum demand of 6500 KVA at 230KV allegedly for start up power for their power plant auxiliaries & for synchronisation of their 2x 80 MW captive power plant with TNEB grid.

4.3. Before commencing the erection works, private power plant promoters avail service connection with certain demand. The power is meant for the construction, testing and commissioning purpose. This service connection is to be treated like any other service connection with certain demand. The term start up power is referred under a totally different context. After construction works are over and the generator gets synchronised with the grid, the sanctioned demand may be surrendered at their option. When the generator trips due to some reason or the other and restarted, the power required for the auxiliaries is drawn from the grid. This is the start up power.

4.4. The Commission has issued an order dated 20.6.2013 in T.P.No.1 of 2013 for Generation and Distribution tariff in which it is stated that from 21.6.13 onwards, the generators are eligible to get start up power under HT temporary supply tariff after declaration of COD. This shall be limited to 10% of the highest capacity of the Generating unit of the generating station or the percentage of auxiliary consumption as specified in the regulation, whichever is less. The supply shall be restricted to 42 days in a year. Drawal of power for a day or part there of shall be accounted as a day for this purpose.

4.5. The Petitioner has requested on 23.1.2013 in Form 4 of Tamil nadu electricity Distribution Code 2004, EHT supply for a maximum demand of 6500 KVA at 230KV voltage level.

4.6. The Petitioner has specifically mentioned in the HT Form 4, under column brief details of Industry to be served as “ power required for captive generating plant start up”

4.7. The Petitioner has specifically mentioned in the HT Form 4, under column Remarks, if any regarding the essentially of supply as ,” Power required for start up and synchronisation of 2 x80 MW captive power plant with TNEB Grid”

4.8. The power supply for testing and pre-commissioning activities & for synchronising of any power plant can be considered only under temporary supply service connection category applicable for all consumers.

4.9. As per the request of the Petitioner, the Petitioner was requested to pay the Registration charges of Rs. 500/- and EMD of Rs. 52,00,000/- (@ Rs. 800 per KVA) vide Lr no. SE/CEDC/N/AEE/Dev/AE/D2/F. HT SuryadevStart uppr /D.106 /13 dt.24.1.13 as per Regulation 34, sub regulation (1) of Tamil nadu Electricity Distribution Code.

4.10. In the said advice slip, it is clearly mentioned that the advice for payment of Registration and EMD towards extension of EHT supply for a maximum demand of 6.5 MVA at 230 KV for the start up power for testing and pre-commissioning activities of the 2 X 80 MW coal based captive power plant and the Petitioner paid the charges on 24.1.13 and hence the HT application was registered on the same day.

4.11. The administrative approval was accorded for load sanction towards extension of EHT supply from the existing 230KV Gummidipoondi-Sriperumpudur tie feeder fed off existing Gummmidipoondi 230KV SS to the Petitioner at SF no. 298/2, new GummdipoondiViilage, Thiruvallur district for a Maximum demand of

6500 KVA at 230KV for testing and pre-commissioning activities of 2X 80MW coal based Thermal power station on 31.01.13.

4.12. Based on the technical sanction, the Petitioner was requested to pay the Development charges of Rs.22,75,000/- (@ Rs.350/-KVA) , service connection charges of Rs.2500/- and Meter caution Deposit of Rs.1,00,000/- vide letter dated 31.1.13 as communicated vide M.P No. 43 of 2003 with effect from 1.10.2004.

4.13. The said charges was paid by the Petitioner on 31.1.13 and executed the HT agreement (Form 8 of Tamil Nadu Electricity Distribution Code,2004) on the same day.

5. Findings of the Commission:-

5.1. We have heard the submissions of learned Counsel appearing for the Petitioner and the Respondents. The Petitioner has filed this petition to fix the charges /tariff payable by the Petitioner towards EMD, Development Charges, Service connection charges and Meter caution Deposit, by the Commission and consequently direct the Respondents to refund the excess amounts collected unauthorisedly with interest as contemplated under section 62(6) of the Electricity Act, 2003 and with cost .

5.2. On perusal of the petition, it is seen that the Petitioner has paid an amount of Rs.52,00,500/- towards Registration fees and EMD on 24-01-2013, and paid Rs.22,75,000/- towards Development charges, Rs.2500/- as service connection charges and Rs. 1,00,000/- towards Meter Caution Deposit on 31.1.2013.

5.3. The Respondent have submitted that before commencing of the erection works, private power plant promoters avail service connection with certain demand. The power is meant for the construction and testing and commissioning purpose. This service connection is to be treated like any other service connection with certain demand. The term start up power is referred under a totally different context. After construction works are over and the generator gets synchronised with the grid, the sanctioned demand may be surrendered at their option. When the generator trips due to some reason or the other and restarted , the power required for the auxillaries is drawn from the grid. This is the start up power. This argument of the Respondent is acceptable one.

5.4. The Commission has issued an order dated 20.6.2013 in T.P.No. 1 of 2013 for generation and Distribution tariff in which it is stated that from 21.6.13 onwards the generators are eligible to get start up power under HT Tariff-V temporary supply tariff after declaration of COD. This shall be limited to 10% of the highest capacity of the Generating unit of the generating station or the percentage of auxiliary consumption as specified in the regulation, whichever is less. The supply shall be restricted to 42 days in a year. Drawl of power for a day or part thereof shall be accounted as a day for this purpose.

5.5. It is evident from the documents filed by the Respondent, the Petitioner has requested on 23.1.2013 in Form 4 of Tamil Nadu Electricity Distribution Code, 2004, for EHT supply with a maximum demand of 6500 KVA at 230KV voltage level and the Petitioner has specifically mentioned in the HT Form 4, under column brief

details of Industry to be served as “ power required for captive generating plant start up”

5.6. The contentions of the Respondent in collecting the EMD, Development charges are acceptable. As per this Commission’s tariff order dated 20-06-2013, power supply for testing and pre-commissioning activities & for synchronising of any power plant can be considered only under temporary supply service connection category applicable for all consumers.

5.7. The contention of Petitioner under para 3.5 above is not acceptable, since the Licensee is authorized to collect the Non-Tariff related Miscellaneous charges viz., EMD, Development charges, Service Connection charges, MCD, etc., from all HT service applicants as stipulated under Regulation 46, 47, 48 at the rates prescribed in the Order of M.P.41 of 2003 including HT Tariff-V and this Commission cannot consider any re-categorisation at the mid-course or direct the Licensee for any refund.

5.8. Development charge is a charge based on overall cost involved in infrastructure and system development. Even though petitioner has established a particular span of transmission network, it cannot set off against the cost involved in cost of overall system. That too, deductible as other income from the total annual expenses to arrive at the Aggregate annual Revenue Requirement (ARR) as per the TNERC (Terms and conditions for determination of Tariff) Regulations, 2005

5.9. From the above records submitted by the Respondent, it is seen that the Petitioner had agreed to pay the necessary charges for availing the HT service for start up power to the Respondent without making any protest. It is only an afterthought that the petitioner is disputing the above said charges. It is the practice in vogue of the Respondent to collect such charges from such similarly placed generators and no one has so far agitated it or challenged before this commission so far.

5.10. In view of the above findings, we are unable to accept the contention of the Petitioner and accordingly the petition is dismissed.

(Sd.....)
(K.Venkatasamy)
Member (Legal)

(Sd.....)
(Dr.T.PrabhakaraRao)
Member

(Sd.....)
(M.Chandrasekar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission