

BEFORE THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION

PRESENT

Thiru. S. KABILAN

Chairman

Thiru. B. JEYARAMAN

Member

And

Thiru. R. RAJUPANDI

Member

D.R.P.No. 8 of 2007

Jaya Anand Spinning Mills (P) Ltd.,
Tamilpadi P.O.
Thiruchuli Taluk,
Aruppukottai
Rep. by its Director
K. Rajamani

..... Petitioner

Vs

1) The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai – 600 002.

2) The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Virudhunagar.

..... Respondents

The above petition viz. D.R.P. No.8 of 2007 came up for final hearing before the Commission on 11th September 2007 and the Commission upon perusing the petition, the affidavit filed in support thereof and the counter affidavit of the respondents and all connected records of the case and upon hearing the arguments of both sides and having stood over for the consideration of this Commission till this day hereby pronounces the following

ORDER

1. Prayer of the petitioner

The petitioner prays that this Commission may be pleased to issue appropriate directions to reduce the sanctioned maximum demand from 400 K.V.A. to 250 KVA.

by the opposite parties to take effect from the date of registration of the application (i.e) 08.06.2007.

2. Contentions of the Petitioner

The contentions of the petitioner are briefly set out as follows:

- (a) The petitioner had applied for H.T. Supply with 400 K.V.A. of sanctioned demand for their spinning mills viz. Jaya Anand Spinning Mills (P) Ltd. at Tamilpadi Village, Thiruchuli Taluk, Virudhunagar Distribution Circle and H.T. supply was effected on 13.4.2007 with H.T. SC. No.285.
- (b) In order to reduce the minimum of demand charges, he had applied for the reduction of demand from 400 K.V.A. to 250 K.V.A. on 04.06.2007.
- (c) The Second opposite party instructed the petitioner to register the application and accordingly the application was registered on 08.06.2007.
- (d) The petitioner has also sent representations dated 05.05.2007 and 09.05.2007 to the Chief Engineer (Commercial) and the Member (Accounts) of the TNEB respectively with request to waive the unused Maximum Demand charges. But he has not received any reply from the said officers.
- (e) The petitioner came to understand that under a new sub-regulation (6) introduced to regulation 17 dated 25.04.2007 of the Tamil Nadu Electricity Supply Code dated 01.09.2004, no reduction can be permitted within one year from the date of availing supply.
- (f) The petitioner states that the said amendment has not spelt out anything about retrospective effect of the amendment. Hence the amendment can be applied to those consumers who availed supply on or after 25.04.2007.
- (g) The petitioner states that the H.T. service connection No.285 was sanctioned and availed on 13.04.2007, earlier to the notification and the agreement executed was open ended. Hence reduction in demand cannot be denied to them, based on the amendment referred to above.

3. Contentions of the Respondents

The contentions of the respondents are briefly set out as follows:-

(a)The petitioner's application was considered as per rules and regulations of the Tamil Nadu Electricity Supply Code. As per the regulation 17 (6) of the Tamil Nadu Electricity Supply Code, the initial agreement period shall be one year from the date of

availing supply and shall not apply for any reduction in the contract demand. As per the code, the consumer may apply for and revise his demand only after the expiry of initial agreement period of one year. The petitioner's agreement is dated 07.03.2007 and their application for reduction of demand is dated 08-06-2007. As their application is within the period of one year, the petitioner is not entitled to reduce the demand as requested by them.

(b)It is incorrect to contend that the amendments to the code can be applied to those consumers who availed supply on or after 25.04.2007. The amendment to the Tamil Nadu Electricity Supply Code 2007 is applicable to the petitioner's demand also.

(c)The petitioner has entered into an agreement dated 07-03-2007 with this respondent. By clause 4 of the said agreement the petitioner has agreed to comply with the requirements of the applicable Acts, Regulations etc., and grid code, Distribution code and Supply code and of any amendments, modifications of any other enactments to be passed in relation to supply made under the agreement from time to time and the rules, regulations, or orders etc, made there under from time to time, provisions of the Tariffs and the terms and conditions of supply prescribed from time to time. Since the petitioner has agreed to comply with the amendments, now he has no locus standi to question the applicability of the amendment.

(d)The consumer with open eyes has entered into agreement and has solemnly undertaken to abide by the conditions, among other things, regarding reduction of load. Therefore, the petitioner's cannot resile from the condition. The said condition is neither inherently objectionable nor illegal or void as opposed to public policy.

4. Points in issue

The two points in issue in this case are

- (I) Whether the amendment to regulation 17 of the Supply Code namely insertion of new sub-regulation (6) to regulation 17 of the Supply Code is applicable to the petitioner company.
- (II) If so, on which date the said amendment is applicable.

5. Finding of the Commission with reference to first point in issue

With reference to the first point in issue namely whether the amendment to regulation 17 of the Supply Code (Insertion of new sub-regulation (6) to regulation 17 of Supply

Code) is applicable to the petitioner company, the respondents in paragraph 8 at page 3 of their counter affidavit have stated as follows

“The petitioner has entered into an agreement dated 07-03-2007 with this respondent. By clause 4 of the said agreement the petitioner has agreed to comply with the requirements of the applicable Acts, Regulations etc., and grid code, Distribution code and Supply code and of any amendments, modifications of any other enactments to be passed in relation to supply made under the agreement from time to time and the rules, regulations, or orders etc, made there under from time to time, provisions of the Tariffs and the terms and conditions of supply prescribed from time to time. Since the petitioner has agreed to comply with the amendments, now he has no locus standi to question the applicability of the amendment”.

The Tamil Nadu Electricity Supply (Amendment) Code 2007 which has inserted new sub-regulation (6) to regulation 17 of the Supply Code is not a separate code. The new sub-regulation (6) has been incorporated in regulation 17 and it forms an integral part of regulation 17 of the Supply Code. The supply code is applicable to all consumers irrespective of the dates of effecting supply to them. The contention of the petitioner in paragraph 10 of the petition is that the amendment can be applied to those consumers who availed supply on or after 25.04.2007 i.e the date on which the amendment has come into force. If the above contention is accepted it would lead to an interpretation that the supply code can be applied only to those consumers who availed electricity supply after the commencement of the code and that it is not applicable to those consumers who have availed supply prior to the said date viz. 1st September 2004. The supply code including the amendment is applicable to consumers as defined in Section 2 (15) of the Electricity Act 2003 (CA 36 of 2003). The supply code along with the amendment made to regulation 17 is applicable to the petitioner as he is a consumer. The application for reduction of demand is made by the petitioner only after the date of commencement of the Amending code inserting the new sub-regulation (6) to regulation 17. As per clause 4 of the agreement executed by the petitioner, the petitioner is bound to comply with the supply code and of any amendment thereof.

6. Finding of the Commission with reference to the Second point in issue

With reference to second point in issue viz the date on which the amendment to regulation 17 would come into force, it is to be noted that as per regulation 1 (b) of the

Tamil Nadu Electricity Supply (Amendment) Code, the amendment should come into force on the date of its publication in the Tamil Nadu Government Gazette namely 25.4.2007. Since the application is made only after the date of commencement of the said Amending Code, the petitioner is governed by the amendment which is applicable to it. The contention of the respondent board extracted in para 3 (c) above is endorsed by the Commission.

Conclusion

In the above circumstances, D.R.P.No. 8 of 2007 is dismissed without cost.

Pronounced in the open court by this Commission on 25th October 2007.

(R. RAJUPANDI)

Member

(B.JEYARAMAN)

Member

(S.KABILAN)

Chairman