

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 126/MP/2014

**Coram:
Shri Gireesh B.Pradhan, Chairperson
Shri A.K.Singhal, Member
Shri A.S.Bakshi, Member**

**Date of Hearing: 18.9.2014
Date of Order : 29.4.2015**

In the matter of

Petition under Section 79 of the Electricity Act, 2003 read with Regulations 2 (8), 2 (34) and 3 of the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, as amended from time to time, and Regulations 24 and 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

**And
In the matter of**

Tamil Nadu Electricity Consumers Association
1st Floor, SIEMA Building, P.B. No. 3817,
8/4, Race Course, Coimbatore-641 018

...Petitioner

Vs

1. Tamil Nadu Generation and Distribution Corporation Limited
No. 11, Anna Salai,
Chennai-600 002

2. Tamil Nadu Electricity Regulatory Commission
TIDCO Office Building,
NO. 19-A, Rukmani Lakshmipathy Salai,
Marshalls Road, Egmore,
Chennai-600 008

...Respondents

Parties present:

Shri Arun, Advocate for the petitioner
Ms. Shagufa Salim, Advocate for the petitioner



Shri Santanam Swaminadhan, Advocate for the petitioner

ORDER

The petitioner, Tamil Nadu Electricity Consumers' Association, has filed the present petition seeking a clarification that the Central Electricity Authority (Technical Standard for Connectivity to the Grid) Regulations, 2007 (CEA Grid Standards Regulations) are not applied to High Tension (HT) consumers availing supply through 11 kV/22 kV supply lines and for consequential relief.

Background of the case:

2. The petitioner is an Association of HT electricity consumers. The members of Association avail the supply of electricity from Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO). The petitioner has submitted that CEA Grid Standards Regulations were notified by Central Electricity Authority in 2007. The petitioner has further submitted that TANGEDCO under the guise of enforcing CEA Grid Standards Regulations directed all the HT consumers in the State of Tamil Nadu, including the members of the petitioner to install harmonic controls irrespective of the supply line capacity by which they are connected. TANGEDCO has also started imposing 15% surcharge as penalty in their supply bills in case of HT consumers who have failed to install necessary equipment. Subsequently, one of the Associations of HT consumers of Tamil Nadu, namely Tamil Nadu Spinning Mills Association sought information under the Right to Information



Act, 2005 from Tamil Nadu Electricity Regulatory Commission (TNERC) as to whether the obligation of installing harmonic control equipment would be applicable to all categories of HT consumers irrespective of the capacity of the supply line by which they are connected. In response, TNERC vide its letter dated 28.5.2012 clarified that the obligation for reduction of harmonics is restricted to distribution systems and bulk consumers. The petitioner has submitted that CEA Grid Standard Regulations defines 'bulk consumer' as one who avails supply from 33 kV or above. The petitioner has submitted that despite the clarification by TNERC, TANGEDCO vide its letter dated 25.9.2013 maintained that CEA Grid Standards Regulations are applicable Regulations but went on to add that these regulations are applicable to distribution systems and as the words 'distribution system' have not been defined, it shall be taken as any consumer connected to a distribution system irrespective of the voltage level.

3. The petitioner has submitted that such an interpretation is wrong and would bring all electricity consumers under the obligation of harmonic suppression including domestic consumers. If this could be the real intention of the CEA Grid Standards Regulations, then the regulations would not have specified the persons on whom the obligation is imposed as 'distribution system and bulk consumers'. The regulations then could have very well stated 'all consumers'. The petitioner has submitted that CEA Grid Standards Regulations would only



be applicable to the distribution system and bulk consumers who avails supply at a voltage level of 33 kV or above.

4. The petitioner has submitted that notwithstanding the clear position of law, TANGEDCO is seeking to impose the obligation under Regulation 4 (1) (v) of the Tamil Nadu Electricity Supply Code which mandates installation of harmonic suppression equipment and imposition of compensation charges on all classes of HT consumers irrespective of the capacity of supply line by which they are connected. The petitioner has submitted that the provisions of Regulation 4 (1) (iv) of Tamil Nadu Electricity Supply Code is at variance of the CEA Grid Standards Regulations to the extent that it applies to all classes of consumer. The petitioner has submitted that in so far as the installation of harmonic control is concerned, CEA Grid Standards Regulations are the applicable regulations as per which the following are obligated to go for harmonic controls:

- (a) 'Bulk consumers' who are receiving supplies from 33 kV or above lines;
- (b) 'Users' such as generating company including captive generation plant or transmission licensee other than Central Transmission Utility or State Transmission Utility or distribution licensee or bulk consumer whose electrical plan is connected to the grid at voltage level 33 kV and above.

5. The petitioner has stated that CEA Grid Standard Regulations are Central laws and has been made under Section 73 read with Section 177 of the Act. However, Tamil Nadu Electricity Supply Code is only a State law and has been



made by TNERC in exercise of power conferred under Section 86 of the Act. Therefore, in order to make the State law consistent with Central law, Tamil Nadu Electricity Supply Code as far as its provisions contained in Regulation 4 (1) (iv) are inconsistent with the Central law, needs to be amended. Till such time, the State law cannot be made enforceable.

6. The petitioner has submitted that since there is lack of clarity on the matter, it has filed the present petition with the following prayers:

“(a) That this Hon`ble Commission may clarify that the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 in so far as it relates to provision of harmonic control equipment, are not applicable to consumers connected to 11 kV/22 kV supply lines of TANGEDCO;

(b) That this Hon`ble Commission may consequently direct the 3rd Respondent to amend the Tamil Nadu Electricity Supply Code, 2004 to the extent of not obligating the consumers receiving supplies from 11 kV/22 kV supply lines in providing harmonic controls and further direct the 1st Respondent to desist from compelling the members of the petitioner association to provide harmonic control equipments when they are found connected with 11 kV/22 kV supply lines by relying upon Regulation 1 (1) (iv) of the Tamil Nadu Electricity Supply Code which mandates the installation of harmonic suppression equipments and imposition of compensation charges on all consumers who are even connected with 11 kV 22/kV voltage supply lines of the 1st Respondent, and

(c) That this Hon`ble Commission may be please to pass such other or further orders as may deem fit and just in the interests of justice.”

7. During the hearing, we wanted to know from the learned counsel for the petitioner as to how the petition is maintainable before the Commission. Learned counsel submitted that under Section 79 (1)(h) of the Act, the



Commission has been invested with the power to specify the Grid Code having regard to the Grid Standards and under Section 79 (1) (i) to specify and enforce the standards with respect to quantity, continuity and reliability of service by licensees. Therefore, enforcement of the provisions of CEA Grid Standards Regulations which is a Central law rests with the Central Commission.

8. We have heard learned counsel for the petitioner and perused documents on record. The main grievance of the petitioner is that CEA Grid Standard Regulations provides for installation of harmonic control and are applicable to bulk consumers which are defined as consumer who avail supply at 33 kV and above. Since the members of the petitioner association are connected to 11 kV and 22 kV supply lines, CEA Grid Standards Regulations are not applicable to them. However, Regulation 4 (1) (iv) of Tamil Nadu Electricity Supply Code mandates installation of harmonic suppression equipments by all classes of consumers and imposition of compensation charges in case of failure. The petitioner has submitted that Tamil Nadu Electricity Supply Code, 2004 is inconsistent with CEA Grid Standards Regulations and in order to make the State law consistent with Central law, Tamil Nadu Electricity Supply Code to the extent of its insistency with CEA Grid Standards Regulations needs to be amended. Accordingly, the petitioner has sought a direction to Tamil Nadu Electricity Regulatory Commission to amend the Tamil Nadu Electricity Supply Code to the extent of non-obligating the



consumers receiving supplies from 11 kV/22 kV supply lines in providing harmonic controls.

9. Tamil Nadu Electricity Regulatory Commission in exercise of its power under Section 50 read with Section 181 of the Electricity Act, 2003 has specified the Tamil Nadu Electricity Supply Code. Regulation 4 (1) (iv) of the Tamil Nadu Electricity Supply Code provides as under:

“(iv) Additional charges for harmonics dumping

Where any equipment installed by a consumer generates harmonics, the consumer shall provide adequate harmonic suppression units to avoid dumping of harmonics into Licensee`s distribution system and the Licensee is at liberty to provide suitable metering equipment to measure the harmonic level pursuant to such harmonic. Where the consumer fails to provide such units, he shall be liable to pay compensation at such rates as the Commission may declare from time to time.”

Under the said regulations, all consumers irrespective of the voltage level are required to provide adequate harmonic suppression units to avoid dumping of harmonics. In response to the letter of the petitioner dated 4.9.2013, TANGEDCO vide its letter dated 25.9.2013 (Annexure P-10) has clarified that as per Regulation 4 (1) (iv) of Tamil Nadu Electricity Supply Code, any consumer irrespective of voltage rating should provide adequate harmonic suppression units and the compensation provision as per the TNERC is applicable. If the petitioner is aggrieved by the response of TANGEDCO, it was open to the petitioner to file an appropriate application before TNERC to seek



appropriate directions under Regulation 26 (3) of the Tamil Nadu Electricity Supply Code. The said provision is extracted as under:

“(3) Where any dispute arises as to the application or interpretation of any provision of this Code, it shall be referred to the Commission whose decision shall be final and binding on the parties concerned.”

10. The petitioner has raised the inconsistency between the CEA Grid Standards Regulations which is a Central law and Tamil Nadu Electricity Supply Code which is a State law and has sought indulgence of the Commission. Under the Electricity Act, 2003, there is no provision under which the Central Commission can direct the State Commission to amend or modify the Electricity Supply Code to comply with the provisions of the CEA Grid Standards Regulations. If the petitioner association is aggrieved by the Tamil Nadu Electricity Supply Code, it should approach the appropriate legal forum. In accordance with the judgment of the Hon`ble Supreme Court in PTC India Vs. Central Electricity Regulatory Commission, regulations of the Central Commission or State Commission can be challenged before the High Court. Incidentally, it is noticed that Regulation 27 of the Tamil Nadu Electricity Supply Code provides for appointment of Code Review Panel. Regulation 27 (4) deals with manner of reviewing the Code. The said provision is extracted as under:

“27. (4) Manner of reviewing the Code:-

(i) Any Licensee, consumer or other interested persons desiring any change in this Code shall send the proposal in writing to the Panel specifying the reasons for such change and setting out the attendant circumstances. For this purpose, the Licensee may hold meetings with the consumer or group of consumers if it is considered that the Code may require changes to meet the individual requirements of the consumer or group of consumers.



(ii) The Panel shall, upon receipt of such proposal or where the Commission has made a reference, forward the same to the STU for its consideration and written comments.

(iii) The Panel shall convene a meeting of its members to consider the comments of the STU, and if necessary at its discretion, invite and hear the person who made the suggestions for change and other interested persons and also the local authorities and telecommunication companies.

(iv) The Panel may, in considering the suggestion and the comments of the STU thereon, set up sub committees to study the related issues.

(v) The Panel after finalizing its views on the modifications to the Code, forward the same to the Commission:

Provided that the Panel may supplement its own procedure in addition to the procedure laid down herein for conducting its meetings and in carrying out its functions.”

11. Therefore, the petitioner has a remedy in law under Regulation 27 of the Tamil Nadu Electricity Supply Code to take up the matter for review of the Code to bring about consistency with the CEA Grid Standards Regulations.

12. For the above reasons, the petition is not maintainable before the Commission. Accordingly, the Petition No. 126/MP/2014 is disposed of.

Sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

