

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

PRESENT : Shri. T.M.Manoharan, Chairman
Shri K.Vikraman Nair, Member
Shri. S.Venugopal, Member

No. 1368 /2015/SEA / KSERC

In the matter of Non Compliance under section 142 of the Electricity Act for not filing the application for approval of Aggregate Revenue Requirement (ARR) and Expected Revenue from Charges(ERC) for each year of the control period and for determination of tariff for the ensuing financial year and application for truing up of Aggregate Revenue Requirements for the previous financial year as per Regulation 11 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2014.

M/s Electronics Technology Parks - Kerala (Technopark) : **Respondent**

Order Dated 20.08.2015

1. M/s Technopark, Thiruvananthapuram, is a deemed distribution licensee for distribution of electricity in the Technopark campus. The licence for distribution was originally given by Government of Kerala as per G.O.(P) No.19/99/PD dated 12.07.1999. The Technopark has now four phases : Phase I, which is the existing park (150 Acres). Phase II (86 acres) is leased out to M/s.Infosys and M/s.UST Global. Phase III extending over 93 acres of land, also a SEZ, adjacent to phase I. Phase IV is the Technocity (450 acres). Technopark, Kollam (44 acres) is also part of its expansion.
2. The Commission had notified KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2014, and it is effective from 14-11-2014. The said regulations stipulate that the licensee has to file application for approval of Aggregate Revenue Requirement (ARR) and Expected Revenue from Charges(ERC) in a multi-year framework. As per the said regulations application for approval of ARR&ERC for the first control period of three years from 2015-2016 to 2017-2018 has to be filed on or before the date stipulated therein.

3. Regulation 11(1) of the Kerala State Electricity Regulatory Commission(Terms and Condition for the Determination of Tariff) Regulations, 2014, mandates that every generating business/company or transmission business/licensee or distribution business/licensee or state load despatch centre,shall file, on or before the Thirtieth day of November of the current financial year, the application for approval of aggregate revenue requirement for each year of the control period and determination of tariff for the ensuing financial year and application for truing up of aggregate revenue requirements for the previous financial year.Under the second proviso to Regulation 11 of the Kerala State Electricity Regulatory Commission (Terms and Condition for the Determination of Tariff) Regulations 2014, the time limit specified for filing the application as above for the first year of the first control period shall be the thirty first day of December, 2014.
4. M/s Technopark had, as per their letter No. ETPK/KSERC/2014-15/682 dated 25.11.2014, requested to grant extension of time till 20.12.2014 for the preparation and submission of the application for approval of the ARR and ERC for the financial year 2015-16. They had also indicated that they were in the process of preparation of the application and they required more time for collection of necessary details. Subsequently as per letter dated 24.12.2014 M/s Technopark requested enlargement of time up to 05.02.2015, citing the following reasons,
 - (i) As per the revised formats for filing ARR & ERC, the volume of data to be collected has increased;
 - (ii) Additional formats are introduced which need more time to collect the necessary data;
 - (iii) There are changes in the consumer categorization as per the revised tariff order

All the licensees had submitted similar request for enlargement of time for filing the applications for approval of ARR & ERC. The Commission vide its order No. 2528/SEA/ARR /2015-16/2014/41 dated 31.12.2014 granted time to all licensees up to 31.01.2015, for filing the applications. It was also informed that no further extension of time would be granted and all the licensees were directed to submit the application under MYT frame work as specified in the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2014. But M/s Technopark failed to submit the application before 31.01.2015.

5. M/s Technopark as per their letter dated 23.01.2015 requested for further enlargement of time till 15.02.2015 for collecting necessary data and filing necessary applications. The Commission vide its letter No.2528/SEA/2014/172 dated 13-02-2015 had granted enlargement of time till 15-02-2015 for filing the application. M/s Technopark failed to submit the application for ARR&ERC for the first control period from 2015-2016 to 2017-2018 in Multi Year Tariff framework and the application for truing up the accounts relating to 2013-2014 even within 15.02.2015. Neither did the licensee request for further enlargement of time.
6. The Commission has, thereupon, issued a notice to M/s Technopark on 25-05-2015 directing to show cause within 15 days from the date of receipt of the notice as to why action under section 142 of the Electricity Act, 2003, should not be initiated against the licensee, for not submitting the applications for ARR & ERC and for truing up for the first year of the first control period.
7. M/s Technopark vide letter dated 11-06-2015 submitted the reasons for the delay in filing the application. The licensee has stated that the delay in filing the application were due to the following reasons;
 - a. Issues in availing the services for the preparation of ARR&ERC from former consultants
 - b. Lack of in-house expertise in the preparation of ARR&ERC under multiyear tariff framework
 - c. Time incurred towards the appointment of new consultants
 - d. Increase in the volume of data for the preparation of ARR&ERC.

The licensee informed that they have entrusted the work of preparation of the ARR&ERC for the control period with M/s CONTIPS. The licensee had also requested the Commission to grant a final time extension till July 7th 2015.

8. The Commission heard the licensee on 07-07-2015. Shri. E.V. Einstein, Assistant Manager Electrical, Technopark and Shri. Viswanathan, Finance Officer, Technopark, represented the licensee in the hearing. Shri. E.V. Einstein prayed before the Commission to condone the delay in filing the application for the approval of Aggregate Revenue Requirement (ARR) and Expected Revenue from Charges (ERC) in a multiyear framework as per the Kerala State Electricity Regulatory Commission (Terms and Condition for the Determination of Tariff) Regulations, 2014. He also explained the reasons for the delay in filing the application.

9. Kerala State Electricity Regulatory Commission (Terms and Conditions of determination of tariff) Regulations, 2014,-

“ (1) Every generating business/company or transmission business/licensee or distribution business/licensee or state load despatch centre shall file, on or before the Thirtieth day of November of the current financial year, the following applications for the control period:

- a) Application for approval of aggregate revenue requirement for each year of the control period and determination of tariff for the ensuing financial year.*
- b) Application for truing up of aggregate revenue requirement for the previous financial year:*

Provided that truing up for the financial years of the previous control period prior to the introduction of MYT framework shall be carried out under relevant Regulations applicable to the respective periods.

Provided further that the time limit specified for filing applications as per clause (a) and (b) above for the first year of first control period shall be the Thirty first day of December, 2014.

(2) Every generating business/company or transmission business/licensee or distribution business/licensee or state load despatch centre shall file, on or before the Thirtieth day of November of every subsequent financial year during the control period, the following applications:

- a) Application for approval of revised aggregate revenue requirement, if any, for the ensuing financial year and determination of tariff for the ensuing financial year:*
- b) Application for Truing up of aggregate revenue requirement for the previous financial year:*

Provided that truing up for the financial years of the previous control period prior to the introduction of MYT framework shall be carried out under relevant Regulations applicable to the respective periods.

(3) All applications shall be filed in the manner specified in the Kerala State Electricity Regulatory Commission (Conduct of Business) Regulations, 2003, as amended from time to time.

(4) Failure to file the application within the stipulated time may attract the provisions of Section 142 and Section 146 of the Act.”

10. Considering the request of M/s Technopark the Commission had granted time extension upto 15.02.2015 for filing the application for the approval of ARR & ERC. But M/s Technopark did not file the application even after five months from the date of last extension. They have also not requested for any further enlargement of time. M/s Technopark has failed to submit any valid reason for the delay in submitting the application for approval of ARR & ERC, before the Commission through their submission in writing and during the hearing on 7.7.2015. Commission is convinced that M/s Technopark has violated the provisions of Kerala State Electricity Regulatory Commission (Terms and Conditions of determination of tariff) Regulations, 2014, the regulation 2 of KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006, the licensing conditions and the directions issued by the Commission in this regard. Therefore it is decided to impose a punishment under Section 142 of the Electricity Act, 2003.

Decision of the Commission.

11. A penalty of Rs.50,000/- is imposed on M/s Technopark for their failure in submitting the application for the approval of Aggregate Revenue Requirement (ARR) and Expected Revenue from Charges (ERC) for the first control period in the multiyear framework as stipulated in the KSERC (Terms and Condition for the Determination of Tariff) Regulations, 2014, and for violating regulation 2 of the KSERC (Conditions of License for Existing Distribution Licensees) Regulations, 2006.

Sd/-
K.Vikraman Nair
Member

Sd/-
S. Venugopal
Member

Sd/-
T.M. Manoharan
Chairman

Approved for issue

Santhosh Kumar K.B
Secretary