

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT
GANDHINAGAR**

Review Petition No. 27 OF 2024

in

Petition No. 2319 of 2024

and

I. A. No. 29 of 2024 in Review Petition No. 27 of 2024

In the matter of:

Filing of Petition under Section 94(1) (f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 72 of the GREC (Conduct of Business) Regulations, 2004 seeking review of the Tariff Order dtd. 01.06.2024 passed by the Commission in Petition No. 2319 of 2024.

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In the matter of:

Filing of application for condonation of delay under Regulation 85 and 80 of the GERC (Conduct of Business) Regulations, 2004 read with Section 151 of the Code of Civil Procedure, 1908.

Petitioner 1 : Madhya Gujarat Vij Company Ltd. (MGVCL)
Represented by : Advocate Srishti Khindaria,
Shri D.N.Yadav

Petitioner 2 : Gujarat Urja Vikash Nigam Ltd. (GUVNL)
Represented by : Advocate Srishti Khindaria,
Shri Saumil Shah

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

07/12/2024

DAILY ORDER

1. The matters were listed for hearing on 21.11.2024.
2. Advocate Srishti Khindaria on behalf of the Petitioners submitted that the present Petition has been filed seeking review of Order dated 01.06.2024 passed by the Commission in Petition No. 2319 of 2024 on following issues:
 - i. Non consideration and disallowance of the contribution for meeting shortfall in GEB CPF Trust and connected to the said aspect consideration of higher profit of GUVNL to be passed on to DISCOMs. This has led to error in consideration of the amount of Rs. 176.45 Crores for FY 2022-23 towards contribution to the GEB CPF Trust.
 - ii. Non-allowance of Rebate on pre-paid meters
 - iii. Allowance of costs for power procurement by GSECL for the FY 2024-25 without considering the actual amount duly approved by the Commission in the GSECL Tariff Order dtd. 01.06.2024
 - iv. Non consideration of Reformed based and Result linked, Revamped Distribution Sector Scheme (RDSS) expenses under O&M for FY 2024-25
3. She has submitted that they have filed an application, which has been registered as IA No. 29 of 2024 in Review Petition No. 27 of 2024, for condonation of delay under Regulation 85 and 80 of the GERC (Conduct of Business) Regulations, 2004 read with Section 151 of the Code of Civil Procedure, 1908.
4. She has submitted that the Commission issued the Tariff Order in Case No. 2319 of 2024 on 01.06.2024. She has further submitted that as it was Tariff Order, the perusal aspects took time for examination, and observed that the Commission had disallowed/treated differently some parameters in the ARR.
5. She has further submitted that as the matter was for review, the advice of legal counsel has been sought. Accordingly, discussions were held with legal counsel on 12.07.2024. in pursuance to the discussions, comments and queries were raised which were answered and thereafter the Review Petition was drafted by the Counsel and the revised Review Petition was sent on 22.07.2024.
6. She has further submitted that the draft of the Review Petition was examined and finalized. The applicants finalized the draft and sought internal approval for the final draft and filing of the review petition.

7. She has further submitted that after receipt of the approval, it was observed that there has been a delay for filing the review petition and accordingly drafting an application for condonation of delay in filing the review has been started. The draft application for condonation of delay was sent by the counsel which was further finalized and approved for filing. In view of above, there is a delay of 08 days in filing of the appeal against Order dtd. 01.06.2024. She has further submitted that the delay in filing the appeal is not deliberate or intentional. She has requested the Commission to condone the delay of 08 days in the filing of the Review petition in the respect of Order dtd. 01.06.2024.
8. We note that the review petition filed by the Petitioner seeking review of tariff order dated 01.06.2024 in Petition No. 2319 of 2024 passed by the Commission on 07.08.2024 in respect of the issues stated in para-2 above. We also note that the Petitioner has filed an application condone the delay of 08 days in the filing of the Review petition in the respect of Order dtd. 01.06.2024.
9. On perusal of GERC (Conduct of Business) Regulations, at Clause 72 (1), it has stipulated that
“.....
72(1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/order to the Commission.
.....”
10. We note that the Petitioners had filed a tariff application in the matter of Truing up of FY 2022-23, Approval of ARR and Determination of Tariff for FY 2024-25 in accordance with GERC (MYT) Regulations, 2016 and amended thereof and the Tariff Order in Case No. 2319 of 2024 was issued on 01.06.2024.
11. The Petitioners have preferred a Review Petition against the Order dated 01.06.2024 in Petition No. 2319 of 2024. However, they have not filed within the period of limitation i.e. within 60 days of the issuance of Tariff Order dtd. 01.06.2024 and filed their review petition against impugned order by delay of 8 days.

12. Now, the Petitioners have submitted the present Petition seeking condonation of delay in submitting of Review Petition for the reasons as cited in foregoing paras. We feel that the process of tariff determination involves various financial, technical, and legal aspects is a very complex and detailed process. Further, as it's a govt entity the process for approval which are justifiably a time-consuming process. We also observe that they have filed their review petition against impugned order by merely delay of 8 days.
13. Therefore, considering the above facts, we decide to allow the I.A. No. 29 of 2024 in Review Petition No. 27 of 2024 in Petition No. 2319 of 2024. We further decide to condone the delay in filing the Review Petitions against the Commission's Tariff Order in Case No. 2319 of 2024 dtd. 01.06.2024 in the matter of Truing up of FY 2022-23, Approval of ARR and Determination of Tariff for FY 2024-25.
14. With this Order the I.A. No. 29 of 2024 in Review Petition No. 27 of 2024 in Petition No. 2319 of 2024 stands disposed of.
15. We note that the review petition filed by the Petitioner seeking review of Tariff order dated 01.06.2024 in Petition No. 2319 of 2024 passed by the Commission in respect of the issues stated in para-2 above.
16. We also note that in the present Review Petition which is filed against order in Petition No. 2319 of 2024 wherein some of the objectors had filed their objections on the tariff Petitions filed by the Petitioners heard by the Commission and decided the said matter. Now, when the review of the Order dated 01.06.2024 in Petition No. 2319 of 2024 filed by the Petitioner, it is necessary to hear the original objectors in Petition No. 2319 of 2024.
17. We note that the petitioners have not impleaded/joined the Objectors who had filed their objections on the Petition No. 2319 of 2024, which were considered by the Commission and passed Order dated 01.06.2024 in the said Petition. As of now, when the review of said order preferred by the Petitioner, we deem it appropriate to hear the original objectors who had filed their objections/suggestions.
18. We, therefore, decide and direct the Petitioners to implead the original objectors as objectors in the present Review Petition and amend the cause title. Further, the Petitioners are also directed to provide copy of the Review Petition to the objectors for their submissions consists of objections / suggestions if any, on the subject matter of the Petition within 2 weeks of the issuance of this Order. After serving copy of the petition, the petitioner shall file affidavit of such service before the Commission. The respondents are directed to file their reply, if any, within 4-weeks on receipt of copy of the petition.

19. The next date of hearing will be intimated separately.

20. Order accordingly.

-Sd-
S. R. PANDEY
Member

-Sd-
MEHUL M. GANDHI
Member

-Sd-
ANIL MUKIM
Chairman

Place: Gandhinagar

Date: 07/12/2024

