



**ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN CASE NO. RP – 1 / 24 - 25**

IN REGARD TO THE APPLICATION SUBMITTED BY HALDIA ENERGY LIMITED UNDER SECTION 94 (1) (F) OF THE ELECTRICITY ACT, 2003 READ WITH REGULATION 3.3 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2013 READ WITH ORDER 47 RULE 1 OF THE CODE OF CIVIL PROCEDURE, 1908 SEEKING REVIEW OF THE ORDER DATED 03.10.2023 PASSED BY THE COMMISSION IN CASE NO. B – 117/ 1

PRESENT:

**SRI MALLELA VENKATESWARA RAO, CHAIRPERSON
SRI PULAK KUMAR TEWARI, MEMBER**

DATE: 03.09.2024



Application submitted by Haldia Energy Limited under Section 94 (1) (f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 seeking review of the Order dated 03.10.2023 passed by the Commission in Case no. B – 117/ 1



Facts in brief:

1.0 The Commission vide order dated 03.10.2023 in Case No. B – 117 / 1 had specified the manner of adjustment of recoverable / refundable amount of the following Annual Performance Review (APR) and Fuel and Power Purchase Cost Adjustment (FPPCA) Orders issued by the Commission for Haldia Energy Limited:

- (i) Order dated 22.09.2023 in Case No. FPPCA – 81 / 16 – 17 and APR – 95 / 21 – 22 in respect of 2 x 300 MW Generating Station of HEL for 2014 – 15
- (ii) Order dated 30.06.2022 in Case No. APR – 74 / 19 – 20 in respect of evacuation system of HEL (400 kV Double Circuit Dedicated Transmission Line) for 2014 – 15
- (iii) Order dated 30.06.2022 in Case No. APR – 75 / 19 – 20 in respect of evacuation system of HEL (400 kV Double Circuit Dedicated Transmission Line) for 2015 – 16
- (iv) Order dated 21.07.2022 in Case No. APR – 76 / 19 – 20 in respect of evacuation system of HEL (400 kV Double Circuit Dedicated Transmission Line) for 2016 – 17
- (v) Order dated 05.07.2023 in Case No. APR – 77 / 19 – 20 in respect of evacuation system of HEL (400 kV Double Circuit Dedicated Transmission Line) for 2017 – 18

2.0 Now, Haldia Energy Limited (HEL) has submitted a review petition on 23.04.2024 under Section 94 (1) (f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 and Order 47 Rule 1 of the Code of Civil Procedure, 1908 seeking review of the order dated 03.10.2023 in Case No. B – 117 / 1 on the following ground:

- (A) In the APR order for 2017 – 18, the Commission had determined net refundable amount after considering an interest benefit allowed to beneficiary. HEL submitted that, the computation of interest benefit in the APR order is erroneous as well as there is no scope of allowing such interest on any refundable amount as per then prevailing Tariff Regulations.



Application submitted by Haldia Energy Limited under Section 94 (1) (f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 seeking review of the Order dated 03.10.2023 passed by the Commission in Case no. B – 117/ 1



- (B) HEL submitted that, as the net refundable of 2017 – 18 itself is erroneous, so considering the same in the impugned order dated 03.10.2023 suffers from error apparent on the face of order.
- (C) Accordingly, HEL prayed to recompute the order dated 03.10.2023 by revising the net refundable for the year 2017 – 18.

Observations of the Commission:

- 3.0 The Commission noted that HEL had filed appeals before the Hon'ble Appellate Tribunal for Electricity (APTEL) against all the APR and FPPCA Orders of the Commission mentioned in paragraph 1. The order under review is in reality a sum-up of the balance position of the utility in different APRs.
- 4.0 The Commission observed that, HEL has submitted the instant review petition against the Commission's order dated 03.10.2023. However, a simple reading of the petition reveals that, HEL has essentially challenged the computation of balance position as has been determined in the APR order 2017 – 18 dated 05.07.2023.
- 5.0 The Commission is to reiterate that, the order dated 03.10.2023 deals with the modalities and time frame of disbursement of net recoverable/ refundable amount as determined in the different APR Orders including that of 2017 – 18. Hence, the amount determined in APR order for 2017 – 18 cannot be reviewed through subsequent recovery order. Moreover, HEL has already challenged the APR order for 2017 – 18 before the Hon'ble APTEL.
- 6.0 Thus, the Commission observes that the instant review petition is not maintainable under Section 94 (1) (f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908.

Order:

- 7.0 On the basis of observations given above, the Commission finds that the review petition made by the petitioner dated 23.04.2024 is not maintainable and thereby directs the review petition to be disposed of.



Application submitted by Haldia Energy Limited under Section 94 (1) (f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 seeking review of the Order dated 03.10.2023 passed by the Commission in Case no. B – 117/ 1



- 8.0 A copy of the order shall be posted in the website of the Commission.
- 9.0 HEL shall download the copy of the order from the website of the Commission and act on it. Certified copy of the order, if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-
(PULAK KUMAR TEWARI)
MEMBER

Sd/-
(MALLELA VENKATESWARA RAO)
CHAIRPERSON

Dated: 03.09.2024

Sd/-
SECRETARY