

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA No. 93 of 2011 in DFR No. 372/2011

Dated: 31st May, 2011

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam,
Chairperson
Hon'ble Mr. V.J. Talawar, Technical Member**

In the matter of

**Maharashtra State Electricity
Distribution Company Ltd**

....Appellant/Applicant

Versus

**Maharashtra Electricity Regulatory
Commission and Others**

.....Respondent(s)

Counsel for Applicant/Appellant: Mr. Ramji Srinivasan,
Sr.Advocate
Mr. Vikas Singh, Sr.Adv.
Mr. Samir Malik
Mr. Abhishek Mitra

Counsel for Respondent: Mr. Buddy A
Ranganadhan
Mr. Rakshpal Abrol

ORDER

This is an application to condone the delay of 1329 days in filing the Application.

2. We have heard the Learned Senior Counsel appearing for the Appellant/Applicant as well as the Learned Counsel for the Commission and the other Respondents.

3. According to the Applicant/Appellant, while passing the impugned Multi Year Tariff Order the State Commission observed that it would undertake to conduct a study to determine the norm for allowance of Operation and Maintenance Expenses, pending which, it would determine the same on the basis of ad hoc arrangement and in the light of the above observations.

4. The Applicant/Appellant was under a reasonable expectation that the State Commission would initiate the requisite programme/study to determine the norm for allowance of O&M Expenses and since the State Commission did not take any step for initiating a study to

be conducted for a long time the Applicant/Appellant has not filed this Application challenging the Multi Year Tariff Order and that was how the delay caused.

5. This Application is stoutly opposed by both the learned counsel for the Commission (R1) as well as the 7th Respondent namely Bharatiya Udhami Avam Upbhokta Sangh.

6. We have carefully considered the submission made by the Learned Counsel for the parties.

7. On perusal of the Affidavit praying for the condonation of long delay, we feel that there is no sufficient cause shown to condone the huge delay of 1329 days in filing the Application.

8. The impugned order was passed as early as on 18.5.2007. It is now brought to the notice by the Learned Counsel for the State Commission that subsequent to the impugned order, the Annual Performance Review Orders had been passed in respect of the three following years and

the said order is being challenged in the different Appeals pending before this Tribunal.

9. According to the Lt. Senior Counsel for the Applicant/Appellant, under a reasonable expectation that the State Commission would initiate the requisite programme, they waited and hence there was delay. We are unable to accept this explanation as admittedly no steps were taken by the Appellant/Applicant to produce the materials before the Commission requesting for undertaking a thorough study for the operation and maintenance expenses based on the past performance and the cost drivers of the same.

10. Therefore, it is evident that there is no diligence on the part of the Applicant/Appellant to approach the Commission to ensure that separate process is undertaken by the Commission by producing the relevant materials.

11. The Learned Counsel for the State Commission submitted that it is not fair on the part of the Appellant/Applicant to approach to this Tribunal after a long and abnormal delay to challenge the Multi Year Tariff

Order dated 18.5.2007 without approaching the Commission in time by producing the relevant material to enable the Commission to initiate the requisite said programme. We find sufficient force in this objection.

12. Hence we feel that there is no sufficient cause shown by the Applicant/Appellant to condone the enormous and abnormal delay of 1329 days which has not been satisfactorily explained.

13. Therefore, this Petition is dismissed. However, there is no order as to costs.

(V.J.Talwar)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson