

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION**

**Order of the Commission dated this the 23<sup>rd</sup> Day of January 2025**

**PRESENT:**

**Thiru K.Venkatesan**

.... **Member**

**and**

**Thiru B.Mohan**

.... **Member (Legal)**

**I.A.No.1 of 2024**

**in**

**S.R.No.122 of 2024**

Tamil Nadu Power Distribution Corporation Limited  
(TNPDCCL)

Rep. by its Chairman-cu-Managing Director,  
NPKRR Maaligai, 144 Anna Salai,  
Chennai – 600 002.

... **Petitioner**

(Thiru.N.Kumananand  
Thiru.A.P.Venkatachalapathy  
Standing Counsel for TANGEDCO)

Versus

M/s.OPG Power Generation Pvt. Ltd.  
OPG Power Plant, OPG Nagar,  
Periya Obulapuram Village,  
Nagaraja Kandigai,  
Madharapakkam Road,  
Gummidipoondi,  
Thiruvallur – 601 201.

... **Respondent**  
(Adv.Rahul Balaji)

This Interlocutory Application in Review Petition stands preferred by the Petitioner Tamil Nadu Power Distribution Corporation Limited with a prayer to Condone the delay of 87 days in filing of the Review Petition.

This Interlocutory Application coming up for hearing on 07-01-2025 in the presence of Tvl.N.Kumanan and A.P.Venkatachalapathy, Standing Counsel for the Petitioner and Thiru.Rahul Balaji, Advocate for the Respondent and upon hearing the submission made by the counsel for the Applicant and on perusal of the material records and relevant provisions of law and having stood up for consideration till this date, this Commission passes the following

### **ORDER**

1. The present IA is filed for seeking condonation of delay of 87 days in filing review against the order dated 25.07.2024 passed by the Commission in D.R.P.No.9 of 2023. The Applicant, in the Review Petition seeks review of the order of the Commission to the limited extent whereby the Commission had directed the petitioner herein to pay carrying cost @ 10% p.a. for the change in law events for the Years 2020-2021 and 2021-2022.

2. In the present I.A for condonation of delay the petitioner has submitted as follows:

2.1. That there is a delay of 87 days in preferring the accompanying Review Petition from impugned judgment dated 25.07.2024 in D.R.P.No.9 of 2023 passed by the Commission.

2.2. The delay is neither wanton nor malafide. The delay is wholly for good and sufficient reasons. There will be serious prejudice to the petitioner if the delay is not condoned. However, there will be no prejudice whatsoever to respondents if the delay is condoned.

2.3. To point out that the Commission while declaring the events enumerated by the Respondent as Change in Law directed that the respondent is entitled to compensation for change in law events set out in the petition for the years 2020-21 and 2021-2022 also as per the terms agreed by the respondent in the undertaking letter dated 30.11.2021. However, the Commission allowed carrying cost at the rate of 10% p.a. which is contradictory of the previous direction i.e. the compensation as per the terms of undertaking letter dated. 30.04.2021 since the undertaking also contained the carrying cost component calculated on the basis of simple interest which was duly agreed upon by the respondent herein.

2.4. The delay is neither wanton nor malafide. The delay is wholly for good and sufficient reasons. There will be serious prejudice to the petitioner if the delay is not condoned and the matters is not heard and decided on merits. However, there will be no prejudice whatsoever to respondent if the delay is condoned as the respondent will, in any event be heard on merits.

2.5. After the receipt of the order in review, the necessary information and data was collected from the field office for the payment of "Change in Law" compensation.

2.6. After obtaining the legal opinion of the Senior Counsel, it was decided that a review petition has to be filed before the Commission and the necessary administrative steps were taken for filing the present Review Petition.

2.5. Thereafter, upon obtaining the approval for filing the present review petition, necessary papers were given to the panel counsel for drafting the review petition. After drafting of the review petition, necessary papers were forwarded to Senior Counsel for vetting and subsequently carrying out necessary amendments.

2.6. The delay was purely due to administrative reasons and the delay is neither willful nor wanton. There will be serious prejudice caused to the petitioner if the delay is not condoned and the matter is not heard and decided on merits. However, there will be no prejudice whatsoever to the respondent if the delay is condoned as they will in any event be heard on merits.

3. It is further submitted by the applicant that where the State is an applicant for condonation of delay, certain amount of latitude is permissible as State represents the collective cause of the community and hence the term "sufficient cause" should be liberally interpreted with reference to the factors which are peculiar to and characteristic of the functioning of the Govt and requires pragmatic approach for determination in the judicial process. The Petitioner has relied on the decision of Hon'ble Supreme Court in State of Haryana Vs Chandramani (1996) 3 SCC 133 in support of its prayer.

4. Apposite to point out that the respondent has not filed any counter affidavit repudiating the cause of delay set out in the affidavit of the petitioner supporting the petition.

5. Having considered the prayer of the petitioner, and settled position of law on the subject, we are of the view that the delay of 87 days is minimal as the applicant is an instrumentality of State having several layers in the decision making process and therefore there needs to be a pragmatic approach in the condonation of delay. We are convinced that the essential requirement of "sufficient cause" is made out in this case as it would have required sufficient time for the Applicant for consultation among the officials at various levels coupled with a need to obtain legal opinion as to the desirability of preferring a review petition instead of appeal before APTEL which is the regular course of action.

6. In fine this Commission decides that the delay of 87 days caused in preferring the connected Review Petition has to be necessarily condoned in the interest of justice.

In the result this petition is allowed. Delay of 87 days ordered to be condoned. No order as to costs.

(Sd.....)  
Member (Legal)

(Sd.....)  
Member

/True Copy /

**Secretary  
Tamil Nadu Electricity  
Regulatory Commission**