



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

No. F.11(1536)/DERC/2017-18

Review Petition No. 65/2017

In the matter of : Petition for seeking Review/Revision/clarification of the Commission's Tariff Order dated 31.08.2017 in Petition no. 20 and 21 of 2017.

BSES Rajdhani Power Limited
Through its : **CEO**
BSES Bhawan, Nehru Place,
New Delhi-110019.

....**Petitioner**

Coram: Sh. B.P. Singh, Member

ORDER

(Date of Order: 19.02.2018)

1. The instant Review Petition has been filed by BRPL for review/revision/clarification of the following issues as contained in the Commission's Tariff Order dated 31.08.2017 in the Tariff Petitions filed by the Review Petitioner:
 - a) Non-consideration of arrears billed for Anta, Auraiya and Dadri Gas stations after FY 2011-12;
 - b) RPO Targets for FY 2017-18 wrongly considered;
 - c) Totalling error in the power purchase cost at Table-146 of the Tariff Order;
 - d) Error in considering Pension Trust amount while computing Normative Rebate in FY 2014-15;
 - e) Consumer contribution capitalised during FY 2017-18 not considered as per Business Plan Regulations, 2017; and
 - f) Erroneous rate of depreciation.
2. Pursuant to the Commission's Interim Order dated 28.12.2017; the Review Petitioner had a meeting with the officers of the Commission and has provided additional documents for consideration of issues.
3. The submissions made by the Review Petitioner have been considered and analysed to arrive at the decision. The issue wise analysis and decision are as follows:

Issue No. 1.

Non-consideration of arrears billed for Anta, Auraiya and Dadri Gas stations after FY 2011-12

Petitioner's Submissions

- 3.1 The Commission has erroneously not considered the arrears of the cost of power procurement from Anta, Auriya and Dadri gas stations, even though such power was procured during the validity of the PPA. Further, in

respect of TPDDL and BYPL, the Commission has, in their respective tariff orders permitted such arrear bills to be passed through in tariff.

- 3.2 It is submitted that the issue of disallowance of cost post the expiry of the PPA is entirely different from disallowance of the cost of energy supplied and consumed during the validity of the PPA. The present issue involves the latter and not the former. Hence, the grounds for disallowance of the cost post the expiry of the PPA, if any, would not have any application to the cost of power supplied and consumed during the validity of the original PPA.
- 3.3 The above is without prejudice to the petitioner's contention pending in appeals before the APTEL and the Supreme Court that no part of the cost of procurement from Anta, Auriya and Dadri ought to have been disallowed at all.
- 3.4 It is prayed that the Commission may please allow the impact of arrear bills of Anta, Auriya and Dadri Gas stations pertaining to period before expiry of PPA raised from FY 2012-13 to FY 2015-16.

Commission's Analysis

- 3.5 As the Review Petitioner did not submit the details of arrears billed for Anta, Auriya and Dadri Gas Stations pertaining to the period prior to the expiry of PPA, in the True petition for FY 2014-15 and FY 2015-16 the same was not considered in the Tariff Order.
- 3.6 The arrear bills for Anta, Auriya and Dadri Gas Stations for the period prior to the date of expiry of PPA shall be allowed on submission of the extant bills by the Review Petitioner. The impact of such allowance shall be given in the next Tariff Order.

Issue No. 2.

RPO Targets for FY 2017-18 wrongly considered:

Petitioner's Submissions

- 3.7 In the Tariff Order (in para 4.68), the Commission, while estimating power purchase cost for the purpose of ARR of FY 2017-18, has erroneously considered RPO Targets at 4.75% towards Solar Energy and 9.50% towards Non-Solar Energy which is contrary to the Business Plan Regulations, 2017 as well as the MYT Regulations, 2017.
- 3.8 The review petitioner has submitted that this finding of the Commission merits reconsideration on account of the following grounds:

- i. The MYT Regulations, 2017 clearly states that the targets for Solar and Non Solar RPO shall be specified in the Business Plan Regulations. Accordingly, Regulation 27 of the Business Plan Regulations, 2017 provides Solar RPO Targets as 2.75% and Total RPO Targets as 11.50% for FY 2017-18. However, the Commission, in the Tariff Order suo-motu revised the Solar RPO Targets and the Total RPO Targets for FY 2017-18 as 4.75% (instead of 2.75%) and 14.25% (instead of 11.5%) respectively. This is an error apparent on the face of the record as the same is in violation of the Business Plan Regulations, 2017 as well as the MYT Regulations, 2017.
- ii. Further, the RPO Targets indicated in the Tariff Order has been fixed without excluding the quantum of hydro power procured, from the sales. This would be contrary to Regulation No. 27(1) of the Business Plan Regulations, 2017.

Commission's Analysis

3.9 The RPO Targets for FY 2017-18 as specified in Business Plan Regulations, 2017 shall prevail over the targets prescribed in Tariff Order for FY 2017-18. Accordingly, the impact shall be considered in True up Order for FY 2017-18.

Issue No. 3:

Totalling error in the power purchase cost at Table-146 of the Tariff Order

Petitioner's Submissions

3.10 There is a totalling error of Rs. 2.07 Crore at Table-146: Trued-up Power Purchase Cost for FY 2015-16 of the Tariff Order, which has resulted in approval of lower power purchase cost for FY 2015-16 and thus reduction in Regulatory Assets recognized till FY 2015-16.

Commission's Analysis

3.11 Due to the printing error the item pertaining to the disallowance on account of violation of Merit Order Dispatch Principle amounting to Rs. 2.08 Crore was not indicated in Table 146 of Tariff Order. However, the said amount of Rs. 2.08 Crore has been taken into consideration while computing the total power purchase cost of Rs. 6,176.81 Crore for FY 2015-16, and therefore, there is no totalling error in True up of Power Purchase Cost for FY 2015-16.

Issue No. 4:

Error in considering Pension Trust amount while computing Normative Rebate in FY 2014-15

Petitioner's Submissions

- 3.12 The grievance of the petitioner is that the Commission has erroneously considered the Pension Trust amount of Rs. 189.91 Cr. in the transmission/power purchase cost for FY 2014-15, when there can be no rebate at all on this Pension Trust amount.
- 3.13 The Commission in Table 142 of the Tariff Order has computed the normative rebate on power purchase and transmission charges for FY 2014-15. In this connection it is submitted that the Petitioner had, erroneously not included the Pension Trust amount as a part of the non-rebatable items in its transmission and power purchase portions of the ARR Petition. The said error has now come to the knowledge of the Petitioner.
- 3.14 It is submitted that while computing the maximum normative rebate on Transmission charges, the Commission has also considered the amount paid towards Pension Trust, which is non-rebatable. Hence, the normative rebate of Rs. 3.78 Crore (189.91 x 2%) on this account, for FY 2014-15 ought to be allowed to the petitioner.

Commission's Analysis

- 3.15 The Review Petitioner has accepted through this petition that it has itself indicated the Pension Trust amount of Rs. 189.91 Cr. in the Transmission charges as rebateable amount in Table 3.16 of the Petition for True up of FY 2014-15. Accordingly, the amount paid towards Pension Trust was not excluded for the purpose of computation of normative rebate on Transmission charges.
- 3.16 As per MYT Regulations, 2011, rebate is applicable on the transmission charges and not on the amount paid towards Pension Trust. Therefore, the amount of Rs. 3.78 Crore calculated as normative rebate on the amount paid towards Pension Trust shall be considered during next true up exercise.

Issue No. 5:

Consumer contribution capitalised during FY 2017-18 not considered as per Business Plan Regulations, 2017:

Petitioner's Submissions

- 3.17 In the Tariff Order, the Commission at Para 4.128 has (i) erroneously considered the capitalised consumer contribution during FY 2017-18 as Rs. 111.80 Crore as against the figure of Rs. 40 Crores; and (ii) erroneously

deducted the so called consumer contribution of Rs. 111.80 Crores from the net capitalisation of Rs. 472 Crores. This is erroneous since the figure of Rs. 472 Crores is already net of the consumer contribution of Rs. 40 Crores. Hence, there is in fact a double deduction.

Commission's Analysis

3.18 The Petitioner in its petitions had itself submitted that usually 20% of the amount of capitalisation is through consumer contribution and therefore, the consumer contribution was calculation at 20% normative basis. As per Business Plan Regulations, 2017, for the FY 2017-18 the amount of capitalisation net of consumer contribution should have been considered as Rs.472 Crore. This shall be taken into consideration while Truing Up of account for the FY 2017-18.

Issue No. 6:

Erroneous rate of depreciation:

Petitioner's Submissions

3.19 In paragraph 3.8.282 to 3.8.284 of Petition No. 20 of 2017 (at page 211-212), the petitioner had computed the depreciation on the basis of the individual rates given in Appendix I to the MYT Regulations, 2011. It is noteworthy to mention that the Commission has admitted that it has considered an erroneous rate of depreciation and has stated that it will consider the rate of depreciation as per the rates specified in MYT Regulations, 2011, in the next tariff order.

3.20 The Commission ought to have computed the depreciation on the basis of the MYT Regulations, 2011. However, the Commission has considered an erroneous rate of depreciation, on the ground that the petitioner had not provided the details of the assets and the respective rates of depreciation as per Appendix I of the MYT Regulations, 2011. It is humbly submitted that details have been furnished by the Petitioner, as desired.

3.21 It is submitted that the failure of the Commission to grant depreciation in terms of the MYT Regulations, 2011, despite the fact that the petitioner furnished all the details as required by the Commission, is an error apparent on the face of Tariff Order. The same not only results in the denial of legitimate returns and entitlements of the petitioner, but also burdens the consumers with carrying cost.

Commission Analysis

3.22 The Review Petitioner did not submit the class wise details of assets, nor information about useful lives of assets was provided, which is required for detailed computation of depreciation as per the rate of depreciation

specified in MYT Regulation 2011. It is to be understood that for the purpose of computing depreciation the GFA of such assets which have outlived their useful lives is deducted from the total GFA. For example say the total GFA is Rs.100 Crore and the value of GFA of assets outlived their useful lives is Rs.15 Crore, the depreciation shall be computed on Rs.85 Crore only (Rs.100Crore - Rs.15Crore).

- 3.23 Therefore, the Review Petitioner is directed to submit the detailed computation of depreciation on each class of asset as per the rates applicable in order to consider the impact of rate of depreciation alongwith useful life of assets. Further, it is also pertinent to state that depreciation may change based on the physical verification report and true up of capitalization for the relevant financial year.
- 4 The Petition is disposed of as per the directions and decisions contained in the paragraph 3 of this order.
- 5 Ordered accordingly.

**Sd/-
(B.P. Singh)
Member**