



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

No. F. 11(1046)/DERC/2013-14/4121/

Petition No. 49/2013

In the matter of: **Petition filed pursuant to directions of Hon'ble Commission and Tariff Order(s) (i) seeking allowance of incentive earned from efficient performance of Petitioner in maintenance of street lights works carried out by the Petitioner in its area of supply for the period FY 2007-2012 (ii) correction of NTI amounts in various ARR's /True up orders filed by TPDDL.**

Tata Power Delhi Distribution Ltd.
Through its Managing Director
Grid Sub Station Building
Hudson Lines, Kingsway Camp,
Delhi 110 009

....Petitioner

Vs.

North Delhi Municipal Corporation
Through: its CLO
17th Floor, Dr. SPM Marg,
Civic Centre, Minto Road
New Delhi 110002

...Respondent

Coram: Sh. B.P. Singh, Member

ORDER

(Date of Order: 17.05.2018)

1. The Instant petition has been filed by M/s TPDDL seeking allowance of incentives earned from efficient performance of petitioner in maintenance of street lights works carried out by the petitioner in its area of supply for the period of 2007-2012 and consequently correction of NTI amounts in various ARR's/True up Orders.
2. The Petitioner through the Petition and subsequent communications has submitted that:
 - i. The petitioner is engaged in maintaining the street lights belonging to various civic agencies which are installed in its area of supply;
 - ii. In order to evolve a performance driven system the Hon'ble Commission vide its order dated 05.03.2004 has put up the incentive/disincentive mechanism for maintaining street lights. The Order also provides that the incentive or disincentive would not be a pass through in the calculation of

the ARR and the payment would be made by the 15th day of the following month.

- iii. Although the said incentive as earned by the petitioner was not meant to be passed on in its ARR as per the express direction/intent expressed by the Hon'ble Commission itself, however the same has been inadvertently passed by the Petitioner in the ARR for the FY 2007-08, 2008-09 and 2009-10 under the head street light maintenance income which head also includes the "amount earned on account of incentive" also.
- iv. The Hon'ble Commission has inadvertently considered the total maintenance charges billed (including the incentive billed) as part of Non-Tariff Income for the petitioner. Given below is the summary of year on year incentive offered as Non-Tariff Income:

Year	Considered as Non-Tariff Income in respective year True up Orders	Incentive Booked	Maintenance Charges	Others	Total Maintenance Charges	Refer Schedule/Notes of Audited Financial Statement
		A	B	C	D=(A+B+C)	
FY 07-08	9.91	0.80	8.99	0.12	9.91	Schedule 14
FY 08-09	10.04	0.81	9.11	0.13	10.04	Schedule 13
FY 09-10	12.89	1.28	11.22	0.39	12.89	Schedule 15
FY 10-11	15.57	1.61	13.31	0.66	15.58	Schedule 14
FY 11-12	19.40	1.92	16.45	1.03	19.40	Note 26
Total		6.42				

- v. Vide the present petition, the petitioner in line with the directions issued by the Hon'ble Commission in various Tariff Orders read with the letters issued in this regard seeks allowance of the incentive amount of Rs. 6.42 crores separately earned by the Petitioner during the financial year 2007-2012 to the petitioner through appropriate mechanism/methodology as deemed fit by the Hon'ble commission. Thus it may be noted that the petitioner has been inadvertently deprived of an amount which it was entitled to retain and allow the same.

3. Per contra the Respondent has made the following submissions:

- i. The Hon'ble Commission on 05.06.2012 directed the petitioner to give the details of incentive-disincentive on maintenance of Street lights along with the documentary evidence but the Petitioner has failed to provide the same, which shows that the petitioner has no documents to show that they are entitled for the incentive, rather the Petitioner has to pay for disincentive charges for maintenance of Street lights. Similar directions were issued by this Hon'ble Commission time and again but the Petitioner without complying with the direction demanded the incentive from the Respondent.

- ii. The Respondent has filed the objection against the ARR submitted by the petitioner for the year 2009-10 in which it was submitted that there are various areas where the street lights are not functional and the DISCOMS have not taken due cognizance of this despite several reminders. It was also submitted that the street lights should be supplied through meters to avoid wastage. In response to the objection submitted by the Respondent the Petitioner assured to take action but no action was taken.
 - iii. The Petitioner has failed to conduct the joint inspection of all the points of street lights regularly and has not produced any such report signed by the officer of the Respondent; the report which was attached with the petition does not belong to the Respondent. Moreover, the Petitioner is required to produce all the documents to claim the incentive.
 - iv. The Petitioner has not clarified in its Petition, whether the Petitioner is demanding the incentive on the total maintenance charges including the cost of material purchased or only on maintaining the street light because on material no incentive can be claimed.
4. In response to the objections made by the Respondent it was submitted by the Petitioner that the Respondent has completely misidentified the issues in the Petition. The scope of the Petition does not deal with any pending dues between the Respondent and the Petitioner. The Petitioner is engaged in maintaining the street lights belonging to various civic agencies which are installed in its area of supply. Petitioner is entitled to be awarded an incentive corresponding to the level of performance achieved by it in regard to its efficiency in maintaining street lights.
5. Subsequently, the Respondent North MCD vide its letter dated 20.11.2015 has submitted that the incentive amounting to Rs. 4,64,74,741/- was paid to M/s TPDDL for the period April-2007 to March, 2012.
6. During the hearing dated 27.02.2018, the Petitioner submitted that Rs. 6.42 crore has been received as incentive from various agencies for efficient performance in maintenance of street light work carried out by the petitioner in its area of supply for the period of FY 2007-2012 out of which an amount of Rs. 4.64 crore was paid by NDMC and which has already been endorsed by it. The Commission vide Order dated 06.03.2018 directed the petitioner to file an affidavit clearly indicating the breakup of incentives received from various agencies for efficient performance in maintenance of street light works carried out by it.

7. In compliance of the Order dated 06.03.2018 the Petitioner has submitted an affidavit stating that:
- i. The Petitioner billed a total amount of incentive of Rs. 6.42 Crores from 2007-08 to 2011-12. The amount due from PWD was 0.11 crore and from MCD the amount due was 6.31 crores.
 - ii. The Petitioner has received a total amount of 4.68 crores as incentives from various agencies for FY 2007-08 to FY 2011-12.
 - iii. Although the total incentive of Rs. 4.68 Cr. Has been received from various agencies, the Hon'ble Commission has considered an amount of Rs. 6.42 Cr. (on billed basis) as a pass through in Non-tariff Income. Therefore, the amount actually considered in Non-tariff Income in ARR by the Hon'ble Commission may be allowed to the Petitioner, which is Rs. 6.42 Cr.
 - iv. The amount of Rs. 6.42 crores has wrongly been considered as a pass through in Non-Tariff Income of the Appellant in previous Tariff Orders, therefore the Petitioner requests the Hon'ble Commission to allow the amount of 6.42 crores on account of incentive earned in line with the Hon'ble Commission's Order dated 13.07.2012.
8. The claim of the Petitioner has been examined and it is observed that there are some discrepancies in the data submitted by the Petitioner e.g. the incentive for the FY 2010-11 was booked more than the permissible limit. Further, the claim of the Petitioner cannot be verified as the amounts of incentive booked have not been reflected separately either in the Audited Financial Statements or in the Tariff Petitions for the respective financial years except in the Tariff Petition for the FY 2010-11. The amount of incentive, which can be verified is only Rs.4,64,74,741/- as accepted by NDMC through an affidavit. To avoid such type of situation in respect of verification of claims, the utilities are advised to maintain separate records in the Audited Financial Statements of the respective Financial Year.
9. In view of the above, an amount of Rs.4,64,74,741/-, earned and received as incentive for a period from 2007 to 2012 shall be allowed to the Petitioner in term of order dated 05.03.2004 which provides that the incentive or disincentive would not be a pass through in the calculation of the ARR and it shall not be treated as non-tariff income.
10. Accordingly, the Petition is disposed of.

Sd/-
(B.P. Singh)
Member