

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO 220-21, SECTOR – 34-A, CHANDIGARH**

**Petition No. 80 of 2016
and Petition No.79 of 2015
(On directions from Hon'ble APTEL
vide order dated 06.09.2017)
Date of Order: 08.11.2017**

Present: Ms. Kusumjit Sidhu, Chairperson
Shri S.S. Sarna, Member
Ms. Anjali Chandra, Member

In the matter of : Compliance of Order dated 06.09.2017 of the Hon'ble Appellate Tribunal for Electricity in Appeal No. 251 of 2016 & I.A.No.652 of 2017 and Appeal No.94 of 2017 filed by Bhakra Beas Management Board (BBMB) Versus PSERC and another before Hon'ble APTEL.

In the matter of: Bhakra Beas Management Board (BBMB), Chandigarh.

AND

Punjab State Power Corporation Limited, Patiala.

Order

1.1 The Central Electricity Regulatory Commission (hereinafter referred to as '**CERC**' or '**Central Commission**') vide its orders dated 12.11.2015 and dated 21.03.2016, had determined the O&M expenses for Transmission System and Generating System of BBMB respectively for FY 2009-2014. The PSERC, in its order dated 27.07.2016 had determined the O&M expenses of PSPCL, based on CERC's aforesaid orders.

1.2 BBMB, thereafter filed an appeal before the Hon'ble APTEL against the PSERC's Order dated 27.07.2016 on the issue of O&M expenses. Simultaneously, BBMB also filed an application before CERC to pass a clarificatory order on its decision on expense elements other than O&M expenses emanating from CERC's preceding orders (dated 12.11.2015 and 21.03.2016).

1.3 CERC, subsequently passed a clarificatory order dated 28.10.2016, stating that the Central Commission only determined the O&M expenses of the generation and transmission of BBMB and did not decide that BBMB would not be entitled to consideration of tariff elements other than O&M expenses and that it was left to the BBMB and participating States to adjust the tariff of other elements as per the system that existed before.

- 1.4 Against the aforesaid clarificatory order dated 28.10.2016 issued by the CERC, BBMB filed an I.A. no. 643 of 2016 before the Hon'ble APTEL. The Hon'ble APTEL vide its Order dated 28.11.2016 gave directions to the PSERC to hear the concerned parties and pass a reasoned order taking into account the order of the Central Commission.
- 1.5 In compliance to the said order of the Hon'ble APTEL, the PSERC after hearing both the parties i.e. PSPCL and BBMB, passed an order dated 11.02.2017, maintaining that the earlier order dated 27.07.2016 issued by the PSERC stands and requires no alteration.
- 1.6 However, BBMB filed an appeal against the PSERC's order dated 11.02.2017 against which the Hon'ble APTEL, after hearing the Appeal no. 251 of 2016 and Appeal no. 94 of 2017, passed an order dated 06.09.2017 setting aside the orders of the PSERC dated 27.07.2016 and 11.02.2017. The relevant paragraph of the order of the Hon'ble APTEL is re-produced as under:

"We are of the considered opinion that the issues raised in both the Appeals have merits as discussed above. These Appeals are hereby allowed. The Impugned Orders dated 27.7.2016 and 11.2.2017 as passed by the State Commission are hereby set aside. The State Commission is hereby directed to pass consequential order within a period of 3 months".

2. The relevant extract of paragraph 2.13.7 from the PSERC's Tariff Order for FY 2016-17 dated 27.07.2016 (of PSPCL) on allowance / disallowance of BBMB O&M expenses of FY 2012-13 to PSPCL is re-produced below for ready reference:

- (A) *Para 2.13.7 ".....CERC in its order has determined ₹13228.77 lac as transmission charges for Bhakra and Beas projects. Based on information provided by PSPCL, the O&M expenses for Bhakra and Beas are segregated as ₹8686.01 lac and ₹4542.76 lac respectively. Further, CERC vide Order dated 21.03.2016 has determined the Tariff for generating stations of BBMB. CERC determined O&M expenses of ₹5792.93 lacs for Bhakra, ₹4909.75 lacs for Dehar and ₹1987.25 lacs for Pong Power Plant. Accordingly, share of PSPCL in O&M expenses of BBMB on account of transmission assets and generating stations allowable vis-à-vis already allowed is determined as under:*

Table 2.9: O&M expenses of BBMB as per CERC's orders

Sr. No.	Particulars	Bhakra Trans.		Beas Trans.		Bhakra Power		Dehar power		Pong Power plant	
		%	₹ lac	%	₹ lac	%	₹ lac	%	₹ lac	%	₹ lac
1.	O&M expenses (CERC)		8686.01		4542.76		5792.93		4909.75		1987.25
2.	Less RVPNL Share	15.22	1322.01	23.80	1081.18	15.22	881.68	20.00	981.95	58.50	1162.54
3.	Balance		7364.00		3461.58		4911.25		3927.80		824.71
4.	PSPCL share	51.80	3814.55	28.72	994.17	51.80	2544.03	51.80	2034.60	51.80	427.20
5.	Allowable O&M expenses	₹9814.55 lac									
6.	Expenses already allowed	₹21242.00 lac (Employee cost =18362.00 + R&M expenses=2657.00 + A&G expenses=223.00)									
7.	Excess Allowed	₹11427.45 lac									

From above table, it is evident that ₹114.27 crore are recoverable from O&M expenses of PSPCL for FY 2012-13. Therefore, O&M expenses of ₹4219.65 (3868.40+352.79+112.73-114.27) crore are approved to PSPCL for FY 2012-13. “

Besides above, in view of CERC Orders dated 12.11.2015 and 21.03.2016, the recoverable amount for previous years, i.e. FY 2009-10, FY 2010-11 and FY 2011-12, for which true up exercise has already been carried out, is ₹7631.75 lac, ₹12693.24 lac and ₹13343.77 lac respectively as per details in Table 2.9 (A).

Table 2.9 (A): O&M expenses of BBMB for FY 2009-10, FY 2010-11 and FY 2011-12

Sr. No.	Particulars	(₹ lac)									
		Bhakra Trans.		Beas Trans.		Bhakra Power		Dehar power		Pong Power plant	
		% age	Amount	% age	Amount	% age	Amount	% age	Amount	% age	Amount
A. FY 2009-10											
1.	O&M expenses (CERC)		7350.69		3844.17		4450.41		3396.11		1298.04
2.	Less RVPNL Share	15.22	1118.78	23.80	914.91	15.22	677.35	20.00	679.22	58.50	759.35
3.	Balance		6231.91		2929.26		3773.06		2716.89		538.69
4.	PSPCL share	51.80	3228.13	28.72	841.28	51.80	1954.45	51.80	1407.35	51.80	279.04
5.	Allowable O&M expenses	7710.25									
6.	Expenses already allowed	15342.00 (Employee cost =6355.00 + R&M expenses=8683.00 + A&G expenses=304.00)									
7.	Excess Allowed	7631.75									

Sr. No.	Particulars	Bhakra Trans.		Beas Trans.		Bhakra Power		Dehar power		Pong Power plant	
		% age	Amount	% age	Amount	% age	Amount	% age	Amount	% age	Amount
B. FY 2010-11											
1.	O&M expenses (CERC)		7771.11		4063.72		5081.2		3017.59		1589.58
2.	Less RVPNL Share	15.22	1182.76	23.80	967.17	15.22	773.36	20.00	603.52	58.50	929.90
3.	Balance		6588.35		3096.55		4307.84		2414.07		659.68
4.	PSPCL share	51.80	3412.77	28.72	889.33	51.80	2231.46	51.80	1250.49	51.80	341.71
5.	Allowable O&M expenses	8125.76									
6.	Expenses already allowed	20819.00 (Employee cost =8000.00 + R&M expenses=12528.00 + A&G expenses=291.00)									
7.	Excess Allowed	12693.24									
C. FY 2011-12											
1.	O&M expenses (CERC)		8215.85		4296.49		4931.79		3620.24		1757.45
2.	Less RVPNL Share	15.22	1250.45	23.80	1022.56	15.22	750.62	20.00	724.05	58.50	1028.11
3.	Balance		6965.40		3273.93		4181.17		2896.19		729.34
4.	PSPCL share	51.80	3608.08	28.72	940.27	51.80	2165.85	51.80	1500.23	51.80	377.80
5.	Allowable O&M expenses	8592.23									
6.	Expenses already allowed	21936.00 (Employee cost =19200.00 + R&M expenses=2571.00 + A&G expenses=165.00)									
7.	Excess Allowed	13343.77									

From above table, it is evident that the total recoverable amount for these years is ₹33668.76 lac, say ₹336.69 crore....”

- (B) Similarly, the relevant extract of paragraph 3.14 from the PSERC’s Tariff Order for FY 2016-17 dated 27.07.2016 (of PSPCL) on allowance / disallowance of BBMB O&M expenses to PSPCL in True – Up of FY 2013-14 is re-produced below:

Para 3.14 “.....CERC in its order determined ₹13984.95 lac as transmission charges for Bhakra and Beas projects. Based on information provided by PSPCL, the O&M expenses for Bhakra and Beas are segregated as ₹9182.59 lac and ₹4802.36 lac respectively. CERC vide Order dated 21.03.2016 also determined the Tariff for generating stations of BBMB. Further, CERC determined ₹6697.67 lacs for Bhakra, ₹5138.68 lacs for Dehar and ₹2454.79 lacs for Pong Dam generating stations. Accordingly, share of PSPCL in O&M expenses of BBMB on account of transmission system and generation stations allowable vis-à-vis already allowed is determined as under:

Table 3.9: O&M expenses of BBMB as per CERC's orders

Sr. No	Particulars	(₹ lacs)									
		Bhakra Trans. System		Beas Trans. System		Bhakra Power House		Dehar Power Plant		Pong Power Plant	
		%	₹ lacs	%	₹ lacs	%	₹ lacs	%	₹ lacs	%	₹ lacs
1.	O&M expenses (CERC)		9182.59		4802.36		6697.67		5138.68		2454.79
2.	Less RVPNL Share	15.22	1397.59	23.80	1142.96	15.22	1019.39	20.00	1027.74	58.50	1436.05
3.	Balance		7785.00		3659.40		5678.28		4110.94		1018.74
4.	PSPCL share	51.80	4032.63	28.72	1050.98	51.80	2941.35	51.80	2129.47	51.80	527.71
5.	Allowable O&M expenses	10682.14									
6.	Expenses already allowed by the Commission	23483.00 (Employee cost =20548+R&M expenses=2790+A&G expenses=145)									
7.	Excess Allowed by the Commission	12800.86									

From above table, it is evident that ₹128.01 crore are recoverable by PSPCL from BBMB on account of excess payment of O&M expenses (Transmission and Generating Stations) for FY 2013-14.”

- (C) Further, paragraph 5.12.5 from the PSERC's Order dated 27.07.2016 relating to O&M expenses of PSPCL of FY 2015-16 is re-produced below:

*“CERC vide order dated 21.03.2016 also determined the Tariff for generating stations of BBMB. Based on CERC's order, the Commission determined allowable O&M expenses to BBMB for FY 2013-14 as ₹106.82 crore in Table 3.9 of this Order. CERC has not determined O&M expenses of BBMB for FY 2014-19 so far. The Commission consciously decided that allowable O&M expenses at the level determined by CERC for FY 2013-14 are to be allowed for subsequent year. However, the O&M expenses determined by CERC for FY 2014-19 will be considered during review/true-up exercise. **Therefore, excess amount i.e. Rs 175.76 (282.58-106.82) crore allowed against O & M expenses of BBMB as per ARR Petition is reduced from O&M expenses allowed to PSPCL in forgoing paras.”***

- (D) Also, the relevant text from paragraph 6.12.7 from the PSERC's Order dated 27.07.2016 relating to O&M expenses of PSPCL of FY 2016-17 is re-produced below:

“...CERC vide order dated 21.03.2016 also determined the Tariff for generating stations of BBMB. Based on CERC's order, the Commission determined allowable O&M expenses to BBMB for FY 2013-14 as ₹106.82 crore in Table 3.9 of this Order. CERC has not determined O&M expenses of BBMB for FY 2014-19 so far. The Commission consciously decided that allowable O&M expenses at the level determined by CERC for

FY 2013-14 are to be allowed for subsequent year However, the O&M expenses determined by CERC for FY 2014-19 will be considered during review/true-up exercise. Therefore, excess amount i.e. ₹191.09 (297.91-106.82) crore allowed against O&M expenses of BBMB as per ARR Petition is reduced from O&M expenses allowed to PSPCL in forgoing paras...

- (E) In compliance with the Hon'ble APTEL's order dated 28.11.2016, the PSERC after hearing both the parties i.e. PSPCL and BBMB passed its order dated 11.02.2017 stating that it's earlier order dated 27.07.2016 stands. The relevant extract from the PSERC's order dated 11.02.2017 is reproduced below:

"The Commission is of the considered opinion that the O&M expenses determined by CERC have been fully accepted by it in its Tariff Order dated 27th July, 2016. Also, the other elements as specified under Regulation 14 of CERC Regulations, 2009 have been claimed by PSPCL in its earlier petitions and allowed by the State Commission as per prevailing system existed before the said Tariff order. Thus, the order dated 27th July, 2016 issued by the State Commission stands."

3. In compliance of above order of Hon'ble APTEL, the PSERC issued notice No. PSERC/Reg/1124-1125 dated 10.10.2017 to BBMB to file year wise details of O&M expenses for the period 2009-14, 2015-16 and 2016-17 based on Audited Annual Accounts of BBMB. Further, detail regarding share of PSPCL in these O&M expenses was also sought. BBMB, vide its reply dated 16.10.2017, filed an affidavit placing on record statement showing year wise/head wise expenditure of BBMB (Power Wing) as per the Annual Accounts for the period 2009-14, 2015-16 and FY 2016-17 including O&M expenses reconciled with PSPCL. PSPCL in its rejoinder dated 27.10.2017 stated that the expenditure shown under Capital expenditure in BBMB Statement does not fulfill the eligibility criteria of CAPEX. As such the capital expenditure may be considered as Repair and Maintenance expenditure in nature. FA, PSPCL vide his memo No. 3575 dated 18.10.2017 requested to allow the O&M expenses on account of BBMB for the period 2009-10 to 2016-17 amounting to Rs. 945.93 crore in the Tariff Order for the year 2017-18. Alternately, the interest on the loan availed from Power Finance Corporation against the disallowance may be allowed.
4. In compliance of the directions of the Hon'ble APTEL, the Commission withdraws the relevant extracts of the Tariff Order of PSPCL for FY 2016-17 mentioned in paragraph 2 of this Order as the same stand set aside. Consequently, the Commission allows the amount in respective years along with carrying cost as follows:-

(₹ crore)

Financial Year	Amount as per Original PSERC Orders	Amount determined in PSERC order dated 27.07.2016 based on CERC's order	Amount recoverable on account of O&M charges as per PSERC order dated 27.07.2016	Amount determined vide PSERC's order dated 11.02.2017 (consequent to clarification issued by CERC dated 28.10.2016 and order of Hon'ble APTEL dated 28.11.2016)	Amount allowable as per the directions of Hon'ble APTEL vide order dated 06.09.2017 i.e. as per column (4)
(1)	(2)	(3)	(4)	(5)	(6)
FY 09-10	153.42	77.10	-76.32	77.10	76.32
FY 10-11	208.19	81.26	-126.93	81.26	126.93
FY 11-12	219.36	85.92	-133.44	85.92	133.44
FY 12-13	212.42	98.15	-114.27	98.15	114.27
FY 13-14	234.83	106.82	-128.01	106.82	128.01
FY 15-16	282.58	106.82	-175.76	106.82	175.76
FY 16-17	297.91	106.82	-191.09	106.82	191.09
Total					945.82

PSPCL further revised its claim of BBMB O&M expenses in its MYT Petition for True-Up of FY 2015-16 and Review of FY 2016-17 amounting to ₹261.75 crore and ₹259.19 crore respectively, which was accepted by the PSERC in its Order dated 23.10.2017. Relevant text from paragraph 3.13.7 and paragraph 4.12.2 of the PSERC's Order dated 23.10.2017 relating to O&M expenses of PSPCL is re-produced below:

Paragraph 3.13.7 “.....O&M expenses allowed in the previous paras are adjusted to the tune of ₹154.93 (261.75-106.82) crore as determined by CERC in its earlier order dated 12.11.2015 & 21.03.2016 and O&M expenses will be further adjusted as per Tariff Order of BBMB for FY 2014-19 as and when determined by CERC.....”

Paragraph 4.12.2 “.....O&M expenses allowed in the previous paras are adjusted to the tune of ₹152.37 (259.19-106.82) crore as determined by CERC in its earlier order dated 12.11.2015 & 21.03.2016 and O&M expenses will be further adjusted as per Tariff Order of BBMB for FY 2014-19 as and when determined by CERC.....”

The revenue gap occurring on this account and carrying cost thereon for these years will be considered in the next Tariff Order of PSPCL, subject to the Central Commission's Tariff Order of BBMB for FY 2009-14 (True-Up) and for FY 2014-19 as and when the same is issued by CERC.

Consequential effect is given to the Hon'ble APTEL's Order dated 06.09.2017 accordingly.

Sd/-
(Anjuli Chandra)
Member

Sd/-
(S.S. Sarna)
Member

Sd/-
(Kusumjit Sidhu)
Chairperson

Chandigarh
Dated:- 08.11.2017