

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO 220-221 SECTOR-34-A CHANDIGARH**

**Petition No. 27 of 2013
Date of Order: 22.08.2013**

In the matter of : Petition for review under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 64 of Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for review of the order dated 10.04.2013 passed by the Commission in Petition No.70 of 2012 approving the Annual Revenue Requirements and determining the transmission tariff for the year 2013-14.

AND

In the matter of: Punjab State Transmission Corporation Limited, PSEB
Head Office, The Mall, Patiala-147001.

Present: Smt.Romila Dubey, Chairperson
 Shri Virinder Singh, Member
 Shri Gurinder Jit Singh, Member

ORDER

Punjab State Transmission Corporation Limited (PSTCL) has filed this Review petition under section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 64 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for review of the Tariff Order dated 10.04.2013 passed by the Commission for PSTCL for FY 2013-14. The review is being sought on the following aspects:

(A) The applicable rate of interest on working capital in terms of the Tariff Regulations.

The submission of the petitioner in this regard is that the PSERC (Terms and Conditions for Determination of Tariff) Regulations,2005 require the interest rate to be lower of (a) the actual interest paid on the loans taken by the licensee for the purpose ; or (b) the Advance Rate of the State Bank of India. The

applicable Advance Rate of the State Bank of India, for the year 2012-13 was 14.75%. The weighted average interest on the actual loans taken by the petitioner for working capital requirements was 12.89%. The petitioner has submitted that due to an error apparent in Order passed the interest rate of 10.93% has been taken by the Commission as interest on working capital. The interest rate on working capital at 12.89% ought to have been allowed.

(B) Interest charges on Term Loan and GPF Loan

The petitioner has submitted that in the Order sought to be reviewed, the Commission has not allowed the interest of Rs.89.12 crore on a loan amount of Rs.804 crore for the year 2012-13 and Rs.86.63 crore on a loan amount of Rs.821 crore for the year 2013-14 as claimed by the petitioner. These loans for which servicing was sought included an amount of Rs.204 crore towards GPF and Rs.600 crore on account of term loans, which had been vested through a statutory notification as on 16.04.2010 issued by the Government of Punjab under Section 131 and other applicable provisions of the Electricity Act, 2003 except GPF loan in which interest upto 31.03.2012 stands included. Consequent to the adjustment of the interest charges from 2010 to 2013, the value of the total loans as between PSPCL and PSTCL worked out in terms of the Transfer Scheme worked out to Rs.221.48 crore towards GPF and Rs.792.92 crore towards term loans as on 01.04.2013. This could be worked out only on 25.04.2013 subsequent to passing of Tariff Order dated 10.04.2013. This being new and important evidence which could not be produced at the time of hearing of Petition No.70 of 2012 (Tariff Petition filed by PSTCL for 2013-14), therefore review of the Order dated 10.04.2013 is justified. The Commission has already included the interest of the GPF in the ARR of PSPCL for recovery through tariff.

(C) Interest on Diversion of funds attributable to Government of Punjab

The petitioner has submitted that in the Tariff Order dated 10.04.2013, the Commission has taken an amount of Rs.24.39 crore in the Annual Revenue Requirement (ARR) of the petitioner on account of diversion of funds during the period of erstwhile Punjab State Electricity Board. Out of this amount of

Rs.24.39 crore, the Commission has taken Rs.10.30 crore to the account of the petitioner and the balance amount of Rs.14.09 crore to the account of GoP. The total amount payable by the GoP for the years 2010-11, 2011-12 and 2012-13 works out to be Rs.42.65 crore. GoP has not paid this amount. The amount not paid by GoP, was required to be funded by the petitioner through other sources on which interest is payable. The petitioner has prayed for allowing the carrying cost of the amount not paid by the GoP as interest cost. The Commission has allowed such interest cost to PSPCL in its Annual Revenue Requirement. The same principle applies in the case of the petitioner because as the issue of diversion of funds has been there from the time of erstwhile PSEB and the total amount has been divided between PSPCL and PSTCL. In view of this, not allowing the carrying cost to PSTCL is an error apparent on the face of the record and therefore, the Order dated 10.04.2013 is required to be reviewed to allow the interest charges to the petitioner on the amount attributable to the State Government towards diversion of capital funds for revenue purpose.

(D) Administrative and General (A & G) expenses

The petitioner has submitted that the Commission has allowed A & G expenses of Rs.20.97 crore against the claim of the petitioner of Rs.32.82 crore for FY 2012-13 and Rs.26.29 crore against the claim of Rs.42.62 crore for FY 2013-14. The petitioner has incurred these expenses on outsourcing, security of Grid sub-stations and other installations and other routine expenses. The Commission had observed in Tariff Order for FY 2012-13 that the issue will be revisited in the Tariff Order for FY 2013-14. The petitioner has submitted that the Commission has in all probability overlooked this aspect while passing the Tariff Order dated 10.04.2013 for FY 2013-14. The petitioner was required and had incurred these expenses for efficient and effective maintenance of its transmission system. There is sufficient justification for the Commission to review the Order dated 10.04.2013 on disallowance of A & G expenses.

The petitioner made the following prayer:-

- (a) Admit the review petition;
- (b) Review the order dated 10.04.2013 and allow the interest on working capital, interest on term loan and GPF loan, interest on diversion of

funds attributable to Govt. of Punjab and A&G Expenses as claimed by the Petitioner in the present petition;

- (c) Pass such other further order(s) as the Commission may deem just in the facts of the present case

2. The petition was admitted vide Order dated 22.05.2013 and PSPCL was made a respondent and was called upon to file reply by 02.07.2013 with a copy to PSTCL. PSPCL filed its reply by way of affidavit dated 10.07.2013 of C.E./ARR & TR. PSPCL has submitted in respect of all the claims sought to be reviewed by PSTCL that the Commission may consider the same and PSPCL needed to be suitably compensated through supplementary tariff increase consequent upon any increase in transmission charges, if allowed by the Commission.

3. The arguments of PSTCL were heard by the Commission on 05.08.2013. PSTCL submitted for allowing time of 10 days to file written submissions in support of their arguments. The written submissions were filed vide Financial Advisor/PSTCL memo No.2044 dated 06.08.2013.

4. **The Findings and decision of the Commission**

The Commission has gone through the petition and written submissions of the petitioner. The issue-wise findings and decision of the Commission is as under:-

A Interest on working capital loan

The petitioner submitted that the interest rate taken by the Commission is not in terms of the Tariff Regulations of the Commission. The Tariff Regulations require the interest rate to be lower of (a) the actual interest paid on the loans taken by the licensee for the said purpose; or (b) the Advance Rate of the State Bank of India. The applicable Advance Rate of State Bank of India was 14.75% for the year 2012-13. The weighted average interest on the actual loans taken by the Petitioner from Rural Electrification Corporation for working capital

requirement was 12.89%. The Commission has allowed the interest rate of 10.93% as interest on working capital in the Tariff Order for FY 2013-14. The Commission has probably taken the average interest rate of all the loans which include the long term loan. The long term loans are used for capital purposes and are generally secured in nature. These loans are generally at lower interest rate as compared to working capital requirement which are at higher interest rate. Petitioner prayed to review an error apparent in the order for allowing the lower interest rate.

The transmission licensee had sought 14.75% rate of interest on working capital being the State Bank of India Advance Rate on April 1, 2012 or 12.89% being weighted average interest on loans taken from Rural Electrification Corporation (REC). This is not in consonance with the Tariff Regulations of the Commission. Regulation 30 (5) of Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005 provides as under:

“the rate of interest on working capital shall be equal to the actual rate of interest paid/payable on loans by the licensee (s) or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is lower. The interest on working capital shall be payable on normative basis notwithstanding that the licensee(s) has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on the normative figures”.

Regulation 30 (5) clearly mandates that rate of interest on working capital shall be equal to the actual rate of interest paid/payable on loans by the licensee or the State Bank of India Advance Rate, whichever is lower. In tune with Regulation 30 (5), the Commission applied the weighted average rate of interest of 10.93% on loans of licensee. This rate of interest was calculated on the basis of detail of loans submitted by PSTCL vide letter No.566 dated 26.2.2013.

As such the weighted average rate of interest of 10.93% allowed to the Utility by the Commission in the Tariff Order for FY 2013-14 is not a mistake and does not merit a review.

B Interest Charges on Term Loan and GPF loan

The petitioner submitted that the Commission has not allowed the interest of Rs.89.12 crore on loan amount of Rs.804 crore for the year 2012-13 and Rs.86.63 crore on a loan amount of Rs.821 crore for the year 2013-14 in the Tariff Order of the Petitioner for FY 2013-14. These loans for which servicing was sought for by the Petitioner includes an amount of Rs.204 crore towards general provident fund and Rs.600 crore on account of term loans, which have been vested by the virtue of the statutory notification issued by the GoP under section 131 and other applicable provisions of the Electricity Act, 2003. Consequent to the adjustment of interest charges from 2010 to 2013 the value of total loans as on 1.4.2013 between PSPCL and the Petitioner worked out in terms of Transfer Scheme as Rs.221.48 crore towards GPF and Rs.792.92 crore towards term loans. The Petitioner prayed to the Commission to rectify an error apparent on the face of record as the Petitioner is bound under law to service these loans vested and to pay the interest on such loans as per the notification of GoP.

Loan amount of Rs.804 crore (Rs.600 crore Term loan + Rs.204 crore GPF Loan) was not included in the detail of loans in the original ARR Petition filed by the Petitioner for FY 2013-14. This amount of loan was revised consequent upon GoP notification dated 24.12.2012 and intimated later on by the utility vide Financial Advisor PSTCL memo No.566 dated 26.2.2013. In the absence of Audited Accounts of the utility for FY 2010-11 and FY 2011-12, revised figures as per notification issued by the Government of Punjab, have not been taken into account.

Interest on loan of Rs.804 crore (Rs.600 crore Term Loan + Rs.204 crore GPF Loan) of the Utility claimed at a later stage by the utility will be considered during true-up based on Audited Annual Accounts of the Utility.

C Interest on Diversion of Funds Attributable to Government of Punjab

The Petitioner has submitted that the Commission has taken Rs.24.39 crore on account of interest on diversion of funds. The Commission has taken an amount of Rs.10.30 crore to the account of Petitioner and the balance amount of Rs.14.09 crore to the account of GoP. The total amount payable by the GoP for the year 2010-11, 2011-12 and 2012-13 works out to an aggregate of Rs.42.65 crore which has not been paid by the GoP. This amount was required to be funded by the Petitioner through other loans and advances and from other sources on which the interest is payable. The Commission, in the case of PSPCL, allowed such interest cost in the Annual Revenue Requirement on the amount payable but not paid by the GoP attributable towards the diversion of funds. Petitioner prayed to review the Tariff Order dated 10.04.2013.

Interest cost on the amount of diverted funds of Rs.42.65 crore attributable to Government of Punjab had not been claimed by the utility in its ARR petition for FY 2013-14 or in any subsequent submission. Hence interest cost was not allowed to the utility in the tariff order for FY 2013-14.

Interest on Diversion of Funds attributable to Government of Punjab will be considered during True-up based on Audited Annual Accounts of the Utility.

D Administrative and General (A&G) Expenses

The Petitioner submitted that the expenses under A&G claimed by the Petitioner included outsourcing expenses, expenses towards security of grid sub-station and other installation, other routine expenses etc. which have not been considered by the Commission. The Petitioner further submitted to relax the Regulations based on the judgements pronounced by APTEL for allowing A&G expenses in addition to the normative A&G expenses. The Petitioner prayed to review the Tariff Order dated 10.4.2013 on the disallowance of A&G expenses.

As per Regulation 28 (4) (a) of Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations,

2005, the O&M expenses (except employee cost) for transmission licensee(s) are allowable as per provisions given of Regulation 28 (2). Clause (2) of Regulation 28 is reproduced as under:

“(2) O&M expenses for distribution licensee(s) shall be determined by the Commission as follows:

(a) O&M expenses as approved by the Commission for the year 2011-12 (true up) shall be considered as base O&M expenses for determination of O&M expenses for subsequent years.

(b) Base O&M expenses (except employee cost) as above shall be adjusted according to variation in the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year to determine the O&M expenses for subsequent years.

Provided that any expenditure on account of licence fee, initial or renewal, fees for determination of tariff and audit fee shall be allowed on actual basis over and above the A&G expenses approved by the Commission.

(c) In case of a new distribution licensee (s), the Commission shall make suitable assessment of base O&M expenses of the new licensee(s) and allow O&M expenses for subsequent years for the new licensee(s) on the basis of such estimation and principle as given in clause (b) above. However, for employee cost the principle specified in clause (3) below will be followed”.

According to this regulation, the O&M expenses are allowable on normative basis by adjusting base expenses in proportion to increase in WPI. There is no provision for allowing expenses towards outsourcing over and above the normative limit specified in the Regulations.

The Administrative and General expenses have been allowed by the Commission on normative basis in line with Regulations in Tariff Order for FY 2013-14 by adjusting base expenses in proportion to increase in WPI as per Regulations. The Commission finds no justification in the claim of the Petitioner for additional expenses over and above those allowed as per Regulations.

The Review Petition is disposed of accordingly.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 22.08.2013