

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Review Petition No. 05 of 2022
In Petition No. 68 of 2021
Date of Order: 08.02.2023

Review Petition under Section 94 (1) (f) of the Electricity Act, 2003 against the Tariff Order dated 31.03.2022 for financial year 2022-23 in Petition No. 68 of 2021.

In the matter of: Punjab State Power Corporation Limited, The Mall, Patiala, Punjab.

... Review Petitioner

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

PSPCL: Sh. Amal Nair, Advocate

ORDER

Punjab State Power Corporation Limited (PSPCL) has filed the present Review Petition seeking review of the Tariff Order dated 31.03.2022 passed by the Commission in Petition No. 68 of 2021. The Review petition was admitted vide Order dated 08.08.2022. PSPCL was directed to issue Public notice as required under Section 67 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 inviting objections/suggestions from the Public/Stake holders. The Public notice was published on 18.08.2022 in The Tribune (English), Ajit (Punjabi), Chardikala (Punjabi) and Punjab Kesri (Hindi). The petition was taken up for hearing as well as public hearing on 13.09.2022. However, nobody appeared from the public in the public hearing. PSPCL filed additional submissions vide memo No. 4532 dated 06.10.2022 and PSPCL was directed to publish a public notice inviting objections/suggestions from a general public/stakeholders on

the additional submissions. The additional submissions were uploaded on the website of the Commission as well as that of PSPCL. Public notice was published on 16.11.2022 in the Tribune (English), Ajit (Punjabi) and Punjab Kesari (Hindi). The Review Petition was taken up for hearing as well as public hearing on 21.12.2022 and after hearing the representative of PSPCL, order was reserved.

Observations and Decision of the Commission

The Commission has examined the Review Petition, the submissions made by PSPCL during hearing and after hearing the Learned Counsel for PSPCL decides as under:

I. AP Consumption (MU)

PSPCL's submission:

The Commission has disallowed 30MU on account of AP urban feeder consumption majorly due to non-furnishing of details of meters that are defective/lost/burnt etc. The Commission has considered the monthly average consumption per consumer on total number of readings which is not in line with regulations framed under PSERC MYT Tariff Regulations, 2019.

Commission's Analysis:

The Commission in Para 3.2.2 (iv) of the Tariff Order for FY 2022-23 while doing the true-up of FY 2020-21 has explained in detail as under:

“iv) AP load fed from urban feeders:

PSPCL in its Petition has submitted metered AP consumption of 148 M kWh in respect of metered AP consumers. PSPCL was directed to provide consumer wise readings to justify its submission. In response to the Commission's query, PSPCL vide

e-mail dated 25.01.2022 submitted the data of around 8429 consumers with 101103 monthly readings having cumulative consumption of 147.75 MkWh. The readings submitted by PSPCL were sorted as per meter status. On perusal of the same, it was observed as under:

- i. 36 no. of monthly readings with consumption of 0.04 MkWh were of Permanent disconnected (PDCO) AP consumers which are required to be excluded.*
- ii. 70567 no. of meter readings with 82.53 MkWh consumption are from the meters for which meter status is ok.*
- iii. For the balance 30500 no. of monthly readings, the meters are defective, lost, burnt, etc.*

PSPCL was directed to submit the details of the urban feeders with meters that are defective/ lost/ burnt. PSPCL has failed to submit the same. Accordingly, the Commission considers 70567 monthly readings having energy consumption of 82.53 MkWh. The monthly consumption works out to 1169.48 units per consumer per month. Applying this on the 101067 readings (101103- 36) submitted by PSPCL, the AP consumption comes out to be 118.20 MkWh against PSPCL's submission of 148 MkWh. Therefore, the Commission approves the AP consumption of 118.20 MkWh for AP load fed from urban feeders."

Further, Regulation 12.2 of the PSERC MYT Regulation, 2019 provides for Truing up of uncontrollable items to be carried out at the end of each year of the Control Period based on prudence check. PSPCL has failed to furnish correct 30500 monthly readings of defective/lost/burnt meters. In the absence of true monthly readings, to be fair, the Commission allowed consumption per

consumer @ 1169.48 units per month on defective meters at par with correct meters so calculated for healthy meters.

The Commission observes that the issue raised above regarding disallowance of AP Consumption for FY 2020-21 was duly considered in Tariff order for FY 2022-23. PSPCL has neither produced any new evidence (which was not within the knowledge of the PSPCL at the time when the decision/order was passed by the Commission) nor is there any mistake or error apparent on the face of the record. It is incomprehensible on what data PSPCL is basing its claim in this review petition on this issue. As such, the prayer with regard to review of the earlier Order on the issue of AP consumption is disallowed. The original order is reaffirmed.

II. Energy Requirement

PSPCL's submission:

True-up of FY 2020-21

- a) In the truing up process, the Commission has considered the total energy requirement of PSPCL as 58,207 MU, as against the actual requirement of 58,521 MU. The power purchase requirement and costs are uncontrollable and have been actually incurred by PSPCL and ought not to be reduced. The energy requirement is to meet the demand of the consumers in the State and ought not to be reduced.
- b) The Commission has computed the energy requirement at target distribution loss. The difference is on account of 1) 234 MU disallowed for AP consumption and 2) 80 MU on account of target distribution losses.
- c) The Commission has computed energy requirement of PSPCL

at targeted distribution loss level of 12.94% against the actual submitted of 12.99%. It is quite pertinent to mention here that due to Covid -19 pandemic, sales made during FY 2020-21 on HT supply was on lower side and on LT supply were on higher side which leads to higher actual distribution losses during FY 2020-21. The same is depicted from the sales pattern of PSPCL during FY 2020-21 where the sale of LS, MS & SP declined by 6%, 30% & 30% respectively, on the other hand LT sales in Domestic and AP increased by 11% and 13% respectively. Therefore, it is requested to review the distribution loss targets for FY 2020-21 in view of the Covid-19 pandemic.

Commission's Analysis:

The Commission in its Tariff Order for FY 2022-23, while doing the truing up of FY 2020-21, in paras 3.2 to Para 3.4 had worked out in detail the Sales, Transmission and Distribution (T&D) Loss and Energy Requirement for FY 2020-21. As pointed out by PSPCL the variation in Energy Requirement is on account of disallowance in the AP consumption and non-achievement of target T&D loss levels. The AP consumption has been disallowed due to non-availability of true meter readings.

Further, with regards to PSPCL's submission regarding disallowance on account of distribution losses, it is submitted that as per approved loss trajectory for FY 2020-21, target distribution losses were 11.24% however, despite significant capex allowed by the Commission towards various schemes of network strengthening, augmentation and loss reduction etc., PSPCL has not been able to bring down its losses to the desired target levels. The Commission, in the Tariff order for FY 2021-22, considered

and approved the distribution loss target of 12.94% for FY 2020-21 (based on actuals of FY 2018-19) as the baseline figure for setting distribution loss trajectory for FY 2021-22 & FY 2022-23. The Commission has already allowed increased losses from the set trajectory for FY 2020-21 from 11.24% to 12.94%. The Commission observes that lowering the target distribution loss levels would reward PSPCL for its inefficiency of not being able to bring its losses down to the target levels and it would be unjust to pass on the impact of increased losses to the consumers who have already been burdened with the Capex allowed to PSPCL. It would amount to double jeopardy for the consumer. The Commission has taken cognizance of the COVID-19 pandemic and allowed actual metered sales of 36377.86 MkWh as submitted by PSPCL in its Petition and after prudence check worked out the actual distribution losses of 13.43%. Accordingly, after considering the distribution loss target of 12.94%, the Commission had approved the total energy requirement of PSPCL at State periphery as 58206.90 MkWh for True-up of FY 2020-21.

The Commission observes that all the issues raised above regarding Energy Requirement for FY 2020-21 were duly considered in Tariff order for FY 2022-23. PSPCL has neither produced any new evidence (which was not within the knowledge of the PSPCL at the time when the decision/order was passed by the Commission) nor is there any mistake or error apparent on the face of the record. As such the prayer with regard to review of the earlier Order on the issue of AP consumption and non-achievement of target T&D loss levels is disallowed. The original order is reaffirmed.

III. Power Purchase

PSPCL's submission:

- a) As per revised energy requirement, excess power purchase made by PSPCL is 317.71 MU (48,408.51-48,090.80). The Commission has disallowed the power purchase on account of under-achievement of distribution losses and computed the actual distribution losses for FY 2020-21 to the tune of 13.43%.
- b) On one hand the Commission is continuing the disallowances in power purchase requirement and on the other hand not giving any relaxation in distribution loss trajectory based on actual losses of PSPCL.
- c) The Commission has disallowed additional UI Charges of Rs. 16.53 Crore under CERC DSM Regulations, 2014. It is submitted that PSPCL never intends to deviate from energy schedules by overdrawing/under drawing. Over drawl & under drawl i.e., deviation from scheduled power and drawn power is essential part of power system. Demand and availability in power system i.e., power demand schedule & demand met on actual basis, can never be kept at par. Furthermore, the State of Punjab is a heavy power consuming state where load variations are frequent & caused by a number of reasons such as day & night, crops season, winter & summer - domestic/industrial load variations etc. Due to sudden load crash/variation, substituting increase/decrease of load throughout the state is a huge task. Similarly on availability side if any unit trips, system is normalized by the way of load shedding or substituting other source if any was available as spinning reserve at such short notice.
- d) In spite of the above-mentioned difficulties, by putting best

efforts, PSPCL has managed to keep net UI energy/charges at a minimal in comparison to total volume of power exchanged by PSPCL. Moreover, as UI deviation charges are determined on 15-minute block basis (then aggregated), variation in demand/availability during such small duration cannot be compensated/nullified.

- e) It is submitted that this issue of allowance of additional UI charges is no longer res integra and has been decided in the affirmative by the Hon'ble Appellate Tribunal in decision dated 29/04/2022 in Appeal No. 264 of 2014, Appeal No. 173 of 2015, and Appeal No. 277 of 2015. Relevant extract of the decision dated 29/04/2022 in this regard is as under:

107. We agree that the Appellant should follow the advice of State Commission in implementing the demand side management so that short term and UI power at high cost is limited, in consumer interest. However, the cost and quantity justified should be allowed by the State Commission.

.....
109. In view of above the appeal has merit to the extent that the State Commission ought to allow the cost for short term power purchase, to the limit as decided/ notified in advance whereas the UI drawl below the frequency of 49.5 Hz shall be allowed to the extent that it is classified as the urgent need for maintaining the State Grid and requirement of the consumers.

- f) The Commission has disallowed 92.32 Crore from power

purchase cost on account of expenditure evaluated for Net banking. However, this amount pertains to premium paid on banking transactions during the year and is eligible as valid power purchase cost. The abstract of banking transaction for FY 2020-21 is tabulated as under:

Energy banking	FY 2020-21		
Particulars	Units (MU)	Rate (Rs./ kWh)	Amount (Rs. Cr.)
Opening Balance	1042.19	4.11	428.34
Banking In			
Opening (A)	1,042.19	4.11	428.34
New purchase (B)	3,440.11	4.50	1,548.05
Total purchase (C = A + B)	4,482.29	4.41	1,976.39
Banking Out			
Sale (D)	-4,262.74	4.50	-1,918.23
Net Banking excluding premium (E = C + D)	219.55	2.65	58.15
Net premium paid (+)/ received (-) (F)	205.15	4.50	92.32
Net Banking (G = E + F)	424.7	3.54	150.47
Closing Balance	617.49	4.50	277.87
Units to be shown in ARR	219.55	6.85	150.47

- g) It is submitted that as per accounting circular issued by PSPCL, energy sale/purchase is being booked in GH-70.102 & banking premium paid/received is being booked in GH- 70.103. However, while allowing tariff for FY 2020-21, the Commission has not considered energy sold as premium paid and booked

under GH 70.103, whereas the same was allowed in the true up of FY 2018-19 and FY 2019-20. While disallowing the banking premium of Rs. 92.32 Crore for FY 2020-21, the Commission observed that units allowed as premium are set off at the Periphery. In this respect it is submitted that the units of banking are set off at periphery after including the units of banking premium received/paid as per banking agreements. The same is illustrated with an example:

Suppose there is a banking agreement between Firm A & Firm B for 500 MW at premium of 5 percent for 90 days. In this case, Firm A will inject 1080 MUs ($500 \times 90 \times 24 / 1000$) at his own state periphery and Firm B will inject 1134 MUs (i.e. 1080 MUs +5%) at his own state periphery and losses in this regard will be borne by respective parties. Thus, it is respectfully submitted that the Commission ought not to deviate from this principle as followed earlier. As such, the Commission is requested to allow banking premium amount to the tune of Rs. 92.32 Crore.

- h) Further, in regard to the observation of Commission regarding higher rate of banking during the FY 2020-21, it is submitted that the net rate per unit of banking depends upon the quantum of banking premium units paid/received. Thus, the rate per unit is irrelevant for the purpose of comparisons. However, for comparative purposes the rate of open access charges paid for banking is relevant and can be considered. During FY 2020-21, 4262.74 MU of power was exported by PSPCL and 4482.29 MU of power was imported by PSPCL during paddy season under various banking agreements. The open access charges of Rs 150.47 Crore were paid on total power transacted of 8745.03 MU and not for difference of two i.e., net banking of power

transacted. Thus, cost of open access charges comes to be 0.17 Rs/unit (Rs 150.47 Crore/ 8745.03 MU) of banking of power which is quite reasonable and ought to be considered.

- i) It is submitted that out of total amount booked in FY 2020-21 for Rs. 46.92 Crore (Rs. 30.08 for force majeure + Rs. 16.84 for COVID rebate), the Commission has allowed only Rs. 6.42 Crore paid/adjusted from the total amount corresponding to 5% covid rebate in FY 2020-21. Balance amount of Rs.10.42 Crore for covid rebate may kindly be allowed by the Commission while allowing power purchase cost for FY 2021-22, as the same has been paid during FY 2021-22. Further, out of Rs. 30.08 Crore of force majeure payment an amount of around Rs. 22 Crore has been paid in FY 2021-22, which may be allowed while determining the tariff during true up for FY 2021-22.
- j) At Page No. 49 of the Tariff Order FY 2022-23, following has been observed by the Hon'ble Commission:

“.....PSPCL has released the amount of Rs. 20.5945 Crore out of Rs. 27.20 Crore toward Durgapur STPS and Rs. 31.1476 Crore out of Rs. 49.11 Crore toward Raghunathpur TPS after availing 25% rebate on fixed charges for the lockdown period.”

It is submitted that there is a typographical error towards the amount paid in respect of Raghunathpur TPS. PSPCL has actually released the amount of Rs. 37.1476 Crore out of Rs. 49.11 Crore toward Raghunathpur TPS after availing 25% rebate on fixed charges for the lockdown period instead of amount of Rs. 31.1476 Crore.

Similarly, the Commission has at Page 49 has also observed as under:

“.....The Commission notes that out of the total amount of Rs. 76.31 Crore related to DVC Durgapur and Raghunathpur for FY 2020-21, PSPCL has made payment of Rs. 51.74 Crore in FY 2021-22. Since, the amount pertains to FY 2020-21, the same will be considered as prior period expenses in FY 2021-22.”

It is submitted that PSPCL has made payment of Rs. 57.74 Crore in FY 2021-22 instead of Rs. 51.74 Crore. Accordingly, the said typographical errors be corrected by the Commission.

- k) In view of the above PSPCL requested that the actual power purchase cost of PSPCL may be fully allowed by the Commission. PSPCL is already in a severe financial crunch and when the actual cost of power purchase is not recovered, it only results in further deterioration of the financial health.

Commission’s Analysis:

The point wise analysis on the PSPCL’s submission is as under:

Para a) & b) Excess Power Purchase

- i. The Commission in Para 3.7 of the Tariff Order has given the detailed rationale for excess power purchase made by PSPCL on account of under achievement of Distribution loss target (Para 3.3 & 3.4 of the Tariff Order) (48408.51 - 48090.80 =317.71) as explained in the Commission’s analysis in issue No. II above titled (Energy Requirement-Commission’s Analysis)
- ii. With regards to PSPCL’s submission regarding not giving any relaxation in distribution loss trajectory based on actual losses of PSPCL, the Commission has already deliberated the matter in issue No. II (as above).

Para c) to e) Disallowance of additional UI Charges

- i. With regards to disallowance of additional UI charges, the

Commission observes that, the issues of additional UI and interest on delayed payment of the same has been already dealt in detail in the para 3.10 (i) of the Tariff Order, specifying the rationale for not allowing the said charges.

Further, Hon'ble APTEL in the judgment dated 29.04.2022 in Appeal No. 264 of 2014, Appeal No. 173 of 2015 and Appeal No. 277 of 2015 has observed as under:

*“106. The drawl of UI power at frequency below 49.5 should be **discouraged** and only allowed under UI mechanism in case of emergencies **and require to be penalized with additional charges for forcing Grid discipline due to unforeseen events occurring, it is desirable that such drawl should be discouraged to the extent possible. Similarly delay in payment to pool is regarded as default which is penalized with interest and should not be allowed.***

108. At the same time, the surcharge due to drawl at low frequencies and the interest on delayed payments should be disallowed to bring in efficiency, reasonableness, economics and in the interest of consumers.

109. In view of above the appeal has merit to the extent that the State Commission ought to allow the cost for short term power purchase, to the limit as decided/ notified in advance whereas the UI drawl below the frequency of 49.5 Hz shall be allowed to the extent that it is classified as the urgent need for maintaining the State Grid and requirement of the consumers.”

It is important to know that the Hon'ble APTEL in its judgment dated 29.04.2022 has observed that UI drawl below the frequency of 49.5 Hz shall be allowed to the extent that it is classified as the urgent need for maintaining the State Grid and

requirement of the consumers. The Hon'ble APTEL has nowhere in its order explicitly pointed out that additional UI charges are to be allowed to the licensee. The Commission in its Tariff Orders have been allowing the UI charges incurred by PSPCL on account of UI draws (overdrawal /underdrawal) irrespective of the frequency as also pointed by the Hon'ble APTEL in its judgment.

Further also, the Commission has only disallowed additional UI charges which are penal charges incurred by PSPCL over and above the UI charges for violating the grid discipline in line with Hon'ble APTEL's judgment dated 30.09.2019 in Appeal No. 246 of 2014.

- ii. PSPCL has not provided any data to prove UI drawl below 49.5Hz as an urgent need. The submissions made by PSPCL do not provide justification for UI drawl below the frequency of 49.5 Hz that can be classified as an urgent need for maintaining the State Grid and meeting the requirements of the consumers. Thus, based on the details available, the Commission opines that it has rightly disallowed the additional UI charges in the original petition No. 68 of 2021.

Para f) to h) Net banking

- i. The commission notes PSPCL submission that amount of Rs. 92.32 Crore which was disallowed from power purchase cost on account of expenditure evaluated for Net banking pertains to premium paid on banking transactions during the year and is eligible as valid power purchase cost. In the review petition, PSPCL has submitted the abstract of banking transaction for the FY 2020-21 as under:

Energy banking		FY 2020-21		
Particulars	Units (MU)	Rate (Rs. /kWh)	Amount (Rs. Cr.)	
Opening Balance	1042.19	4.11	428.34	
Banking In				
Opening (A)	1,042.19	4.11	428.34	
New purchase (B)	3,440.11	4.50	1,548.05	
Total purchase (C = A + B)	4,482.29	4.41	1,976.39	
Banking Out				
Sale (D)	-4,262.74	4.50	-1,918.23	
Net Banking excluding premium (E = C + D)	219.55	2.65	58.15	
Net premium paid (+)/ received (-) (F)	205.15	4.50	92.32	
Net Banking (G = E + F)	424.7	3.54	150.47	
Closing Balance	617.49	4.50	277.87	
Units shown for FY 2020-21 in ARR Petition for FY 2022-23	219.55	6.85	150.47	

The Commission notes that PSPCL had submitted in the ARR of FY 2022-23 (Table 31; Sr. No. 22) that in year FY 2020-21, it had shown net banking of 219.55 MUs against which Rs. 58.15 Crore had been allowed to PSPCL in the power purchase cost. Now in the ibid submission in this Review petition, PSPCL has submitted that it has paid net premium of 205.15 MU for Net banking and its net banking quantum including premium is 424.70 MU (219.55 MU+205.15 MU) for which it had sought a total expenditure of Rs. 150.47 Crore including net premium of

Rs. 92.32 crore. The Commission observes that in the ARR Petition for FY 2022-23 has shown quantum of 219.55 MU for net banking whereas now in review petition, PSPCL is claiming quantum of 424.70 MU with regard to net banking which means that the power purchase in FY 2020-21 on account of net banking would have been 424.70 MU instead of 219.55 MU claimed by PSPCL. The Commission further notes that in the FY 2022-23 ARR PSPCL has claimed quantum of power purchase on account of net banking of 219.55 MU however it is claiming power purchase cost on account of net banking of 424.7 MU of Rs. 150.47 Crore which includes premium paid Rs. 92.32 crore. PSPCL should have claimed premium on both sides (i.e., in power purchase quantum as well as cost also) or on neither side.

- ii. PSPCL has claimed only 219.55 MU in the power purchase on account of net banking. PSPCL has not brought out any new fact in its submission which was not known to it during the proceedings of the ARR of FY 2022-23.
- iii. Also, The Commission notes that after considering the energy availability, net power purchase made by the PSPCL (after considering net banking of 219.55 MU), the Commission has already disallowed 317.71MkWh (317.71MU) of excess power purchased on account of under achievement of distribution loss target approved by the Commission in the tariff Order for FY 2022-23. Had the Commission considered 424.70 MU (Net banking including premium) as per the current submission, the distribution loss would have been higher than that worked out during Truing up of FY 2020-21 and the disallowance on

account of non-achievement of target losses would have been more. As such, PSPCL would not have been entitled for the claim of 205.15MU (424.7MU - 219.55MU) as the quantum shall fall in the excess power purchase disallowed at short term power purchase rate.

Para i) Force Majeure amount & 5% Covid rebate amount of NRSE generators

- i. With regard to Force majeure amount with held & 5% Covid rebate amount of NRSE generators, the Commission while doing the true-up of FY 2020-21 in Para 3.10.vii of the Tariff Order for FY 2022-23 observed that PSPCL has paid only Rs. 6.42 Crore in FY 2020-21, accordingly the same was allowed in the power purchase cost of FY 2020-21. **For the remaining amount of Rs. 40.50 Crore, the Commission in the Order has specifically observed that the balance amount shall be considered in the year in which the payments are made. PSPCL has now claimed that Rs. 10.42 Crore for Covid Rebate and Rs. 22 Crore for force majeure out of the balance dues were paid in FY 2021-22. These will be considered, after prudence checks, during true-up of FY 2021-22.**

Para j) Disputed Amount of Durgapur STPS, Raghunathpur TPS & Pragati-III Power Stations

- i. With regards to disputed Amount of Durgapur STPS, Raghunathpur TPS & Pragati-III Power Stations the Commission while doing the true-up of FY 2020-21 in Para 3.10.vi of the Tariff Order for FY 2022-23 observed that out of the total amount of Rs. 76.31 Crore related to DVC Durgapur and Raghunathpur for FY

2020-21, PSPCL has made payment of Rs. 51.74 Crore in FY 2021-22. Since, the amount pertains to FY 2020-21, the same will be considered as prior period expenses in FY 2021-22. For the balance amount of Rs. 24.57 Crore (Rs.76.31 Crore – Rs. 51.74 Crore) to these Power stations and the disputed amount of Rs. 22.93 Crore relating to Pragati Power Station will be considered when it is actually paid by PSPCL. It is pertinent to note that PSPCL vide Memo No. 922/ARR/Dy.CAO/263/Deficiencies/Vol-I dated 24.12.2021 had submitted that as per the latest developments with M/s DVC, PSPCL has released the amount of Rs. 20.5945 Crore out of Rs. 27.20 Crore toward Durgapur STPS and Rs. 31.1476 Crore out of Rs. 49.11 Crore toward Raghunathpur TPS after availing 25% rebate on fixed charges for the lockdown period. Accordingly, the Commission had considered Rs. 51.74 Crore (Rs. 20.5945 Crore + Rs. 31.1476 Crore) as prior period expenses in FY 2021-22. PSPCL, in this Review Petition, has now submitted that the amount paid in respect of Raghunathpur TPS is actually released the amount of Rs. 37.1476 Crore out of Rs. 49.11 Crore. **The Commission notes that earlier PSPCL submitted that it had released 31.1476 Crore for Raghunathpur TPS, which were allowed by the Commission but now PSPCL has mentioned that it has released 37.1476 Crore to Raghunathpur TPS and the typographical error is on the part of PSPCL and accordingly the difference of Rs. 6.00 Crore after due prudence check shall be considered during True-up of FY 2021-22.**

The Commission observes that no new or important matter or evidence has been produced (which was not within the knowledge of the PSPCL at the time when the decision/order was passed by the Commission) nor is there any mistake or error apparent on the face of the record. As such, the prayer with regard to review of the earlier Order on the issue of power purchase cost as requested by PSPCL in para k is not admissible. However, the claim due to the typographical error pointed out by PSPCL in its Petition linked to payment made to DVC showing a difference of Rs. 6.00 Crore, as also the claim of COVID rebate of Rs. 10.42 Crore and force majeure claim of Rs. 22 Crore, will be considered by the Commission during True-up of FY 2021-22 after due prudence check.

IV. T&D Losses

PSPCL's submission:

It is submitted that T&D losses must also be computed on power generated by solar roof top consumers and consumed by respective consumers. It is submitted that 37,279.83 Kwh units were generated by solar roof top plants. To that extent, it is submitted that the T&D losses as suffered on account of consumption of power by solar roof top plants ought to be reduced from the T&D losses of PSPCL.

Commission's Analysis:

The Commission allows target T&D losses on Gross energy input required in line with the PSERC MYT Regulations, 2019. T&D

losses suffered on account of consumption of power by solar roof top plants are negligible. Also, PSPCL neither in the original petition nor in this review petition has submitted the actual losses suffered on account of solar roof top plants. **The Commission observes that no new or important matter or evidence has been produced (which was not within the knowledge of the PSPCL at the time when the decision/order was passed by the Commission) nor is there any mistake or error apparent on the face of the record. As such the prayer with regards to review of the earlier Order on the issue of T&D losses is not admissible and is therefore denied.**

V DEPRECIATION

PSPCL's Submissions

- a) PSPCL submitted that the Commission has not considered assets of Rs. 3350 Crore which were transferred from GNDTP to the distribution business and reduced from the opening GFA. However, these assets of GNDTP were revaluated in the past. In opening GFA taken by the Commission, value of such assets was taken at pre-revaluation value. Hence deduction is also required to be made at pre-revaluated cost.

Commission's Analysis

- b) The assets of erstwhile PSEB were revaluated at the time of unbundling into PSPCL and PSTCL. The revalued assets were transferred to PSPCL and PSTCL on 16.04.2010. Assets of GNDTP were Rs.3350.59 crore out of which Rs.3265.65 crore of land not in use and Rs. 84.94 crore of other assets pertains to Generation Business. While allowing depreciation under

Distribution business the value of Rs.84.94 crore due to other assets in Generation Business has been considered and GFA of Rs.3265.65 crore has been excluded from GFA of Distribution business as land not in use is not considered for depreciation. The Commission has rightly considered revalued value of assets in the opening GFA.

Thus, no new record or evidence has been produced (which was not within the knowledge of PSPCL at the time when the data was furnished by PSPCL and order was passed by the Commission) nor has any mistake or error apparent on the record been pointed out to justify any review. As such the prayer for review of the earlier Order on this issue is not admissible and is rejected.

VI NON-TARIFF INCOME

PSPCL's Submissions:

- a) PSPCL submitted that this Commission has considered 50% of rebate on timely payment for power purchase i.e., Rs. 81 Crore and Generation Based Incentive for Solar Power has been considered as non-tariff income.
- b) PSPCL further submitted that rebate gained by making timely payments cannot be included as part of non-tariff income and doing so completely negates the very benefit of making timely payments. Power purchase cost is one of the basic parameters for calculating the annual revenue requirement and as such any rebate received by PSPCL ought not to be artificially reduced from the computation of annual revenue requirement.

- c) PSPCL stated that the Commission included 50% of the timely rebate on power purchase as non-tariff income, i.e., the efficiencies of PSPCL for timely payment on power purchase bills are not fully transferrable to the utility, while the Commission, on the other hand, rejects the overall late payment penalty of 100% from consumers, i.e. in either case, the PSPCL is hit financially. The State Regulatory Commission has the dual responsibility of looking after the interests of consumers without negating the interests of the utility.
- d) PSPCL further submitted that in addition to above, income on account of delayed payment surcharges is to be adjusted towards the working capital requirement which has been borne by the Distribution Licensee. As the delayed payment surcharge are the charges collected against the receivables which were not timely received from the consumers. Due to delay in receiving of revenue, the Utility has to arrange additional working capital to carry out its operation work. Hence, the revenue received from delayed payment surcharges is not an income to the Utility, rather it is a carrying cost recovered from consumers to repay the interest on the incremental working capital which has occurred due to delay in receiving of revenue. Thus, it is requested that the revenue from delayed payment surcharge should not be considered as income to the Utility.
- e) PSPCL submitted that the issue of Late Payment Surcharge is no longer *res integra* and has been decided in the favour of PSPCL by the Hon'ble Appellate Tribunal in decision dated 29/04/2022 in Appeal No. 264 of 2014, Appeal No. 173 of 2015, and Appeal

No. 277 of 2015. Relevant extract of the decision dated 29/04/2022 in this regard is as under:

162. Issue No. 13- Late Payment Surcharge: The Appellant submitted that the State Commission has included the late payment surcharge collected by the Appellant in non-tariff income, considering that the interest on working capital is allowed to the Appellant on normative basis which is lower and therefore, does not include the actual interest which the Appellant has to fund through late payment. Thus, when the payment was received late by the Appellant, the loan taken to fund the gap and the delay in receipt in payment is to be on the account of the Appellant and the same is not allowed in the revenue requirement of Appellant. However, when the consumer pays the late payment surcharge for the delay in the payment, instead of the same to the income of the Appellant to set off the cost incurred by the Appellant, the late payment surcharge is included in the non-tariff income to reduce the revenue requirement of the Appellant. This has resulted in less cashflow of the Appellant.

.....

168. We decline to accept the submission of the State Commission, the appeal has merit, and issue is decided in favour of Appellant. The State Commission shall consider the impact of late payment without limiting under the condition of normative norms as disallowance of it may badly impact the financial condition of the Appellant, if it keep on growing having cumulative impact also.

- f) PSPCL stated that in view, on account of the issue of late payment surcharge being squarely covered by the decision dated 29/04/2022, the same ought to be reviewed by the Commission.

Commission's Analysis:

- g) The Commission has considered 50% of rebate on timely payment for power purchase i.e., Rs. 81.32 crore and Generation Based Incentive for Solar Power has been considered as non-tariff income as per MYT regulation 2019 clause 28.1(m) which is reproduced below:

“Rebate on timely payment of power purchase including transmission bills provided that only 50% of the ‘rebate for timely payment of power purchase and transmission charges’ received by the Licensee shall be considered as non-tariff income;

- h) The Commission has also considered the revenue from late payment surcharge (late payment surcharge less financing cost of late payment surcharge) amounting to Rs 320.83 crores (Rs 555.10-234.27) as non-tariff income as per MYT regulation 2019 clause 28.1(c) as reproduced below:

“Net revenue from late payment surcharge (late payment surcharge less financial cost of late payment surcharge)”.

The commission has calculated the financial cost covering the delayed recovery of late payment surcharge against the receivables which were not timely received from the consumers as such Rs 234.27 crores has been allowed.

- i) The Commission has gone through the decision of the Hon'ble APTEL dated 29.04.2022 in Appeal No. 264 of 2014, Appeal No.

173 of 2015, and Appeal No. 277 of 2015 and has taken due cognizance of the same.

Only the surplus beyond the financial cost is included in non tariff income as per MYT Regulations,2019 clause 28.1(c) as reproduced above.

Thus, no new record or evidence has been produced (which was not within the knowledge of PSPCL at the time when the data was furnished by PSPCL and order was passed by the Commission) nor has any mistake or error apparent on the record been pointed out to justify any review. As such the prayer for review of the earlier Order on this issue is not admissible and is denied.

VII REVENUE

PSPCL's Submission

a) PSPCL stated that this Commission has erred in over-stating the revenue from the existing tariff of PSPCL. The Hon'ble Commission has erred in not proceeding with the actual audited accounts of PSPCL in regard to its revenue which are based on actual figures after a statutory audit by the statutory auditors of PSPCL and also by the CAG of India, and consequently artificially over-stating the revenues of PSPCL. This has resulted in a difference in revenue from metered sales as per billing and as per accounts data of Rs. 326 Cr in the tariff Order. It is submitted that the said issue was raised by PSPCL in Appeal No. 264 of 2014 and Appeal No. 173 of 2015, wherein by the decision dated 29/04/2022, the Hon'ble Tribunal, after taking into consideration identical submissions made by PSPCL, had remanded the issue to

the State Commission. PSPCL submitted that the present tariff order ought to be reviewed by the State Commission on this issue.

- b) PSPCL has further stated that in addition to the above, in terms of the directions received from the Government of Punjab, PSPCL has deferred the recovery of fixed charges from LS & MS category consumers amounting to Rs. 247.38 Crore during the Covid-19 period. However, the Commission has directed PSPCL to recover the same. Aggrieved consumers had approached the Hon'ble Tribunal against such recovery of fixed charges and the matter is still pending adjudication. However, the Commission has considered the financial implications of the above charges of Rs. 247.38 Crore under revenue from sale of power for FY2020-21 resulting in overstated revenue of PSPCL. Therefore, the same should be deducted from the revenue, which is already into account by the Commission in carrying out the truing-up of FY2020-21.

Commission's Analysis

- c) Hon'ble APTEL in its Judgment dated 29.04.2022 in Appeal No. 264 of 2014, 173 of 2015 and 277 of 2015 has directed this Commission to look into the matter of Revenue afresh based on the submissions of the Appellants and decide on the issue afresh.
- d) As per para 3.31 of the Tariff Order for FY 2022-23, the Commission has trued up Revenue from Sale of Power for FY 2020-21 as Rs 31744.36 Crore. The relevant part of order is as under:

“The Commission directed PSPCL to provide the actual billing data. PSPCL submitted the same vide Memo No. 47/ARR /DY.CAO. /263/ Deficiencies/Vol-I dated 11.01.2022. The Commission observed as under:

1. *The revenue from sale of power in the audited accounts was less than shown in the actual billing data. Accordingly, the Commission decided to consider the metered category-wise revenue as **per the actual billed data**.*
2. *PSPCL vide email dated 24.03.2022 has submitted that a one-time settlement scheme was launched by CE/Commercial office vide Memo No. 818/25/DD/SR-56 dated 08.03.2019 & office of CAO/Revenue vide Memo No. 52-59/CAO/RM/101 dated 08.02.2021 for Rural Water Supply connections of department of water supply & sanitation (DWSS) for settling the Surcharge/interest on defaulting amounts of energy bills. PSPCL has further submitted that an amount of Rs. 128.68 Crore was settled under this scheme and PSPCL has inadvertently deducted the same in the revenue of the category of 'Compost/ Solid waste Management Plants for Municipalities/ Urban Local Bodies/ Rural Water Supply'. Accordingly, the Commission has not considered the Sundry Allowances of Rs. 128.68 Crore as part of Revenue for FY 2020-21 as PSPCL has separately claimed Rs. 371.37 Crore as bad and doubtful debts. The same is being dealt in Para 3.22 and 3.24.*
3. *Further, the details regarding revenue from theft and unbilled revenue were submitted by PSPCL vide reply dated 24.12.2021. The Commission has observed that PSPCL has submitted 370.11 M kWh as units detected under theft (194.29 M kWh) and short assessment (175.82 M kWh) as given in Table 14. However, the revenue submitted by PSPCL was only Rs. 68.48 Crore. In response to Commission's query regarding the same, PSPCL vide memo no. 25/CAO/RM/151 dated 11.01.2022 has submitted that the revenue from theft may be considered as Rs. 270.38 Crore where in Rs. 68.48 Crore has been booked separately under theft and rest of the revenue has been booked under revenue of various categories.*
4. *Further, PSPCL has submitted that the revenue of Rs. 7.36 Crore has been assessed from the net unbilled units of 125.01 M kWh*

.....Accordingly, the Commission has considered the revenue of Rs. 7.36 Crore from unbilled units.

5. The revenue from AP has been assessed on the basis of energy sales approved for AP in para no. 3.2.2. The Commission has considered the tariff approved in Tariff Order for FY 2019-20 for 2 months and the tariff approved in Tariff Order for FY 2020-21 for the remaining 10 months to calculate the revenue from Energy Charges for AP as Rs. 7113.44 Crore for FY 2020-22.
6. The revenue from Common Pool and outside state sales have been considered as per the Audited Annual Accounts and the same is verified from the billing data submitted by PSPCL.
7. The Commission vide order dated 17.07.2020 in Petition No. 12 of 2020, regarding recovery of fixed charges, had directed PSPCL to recover the same in six equated monthly instalments. PSPCL vide letter dated 02.02.2022 has submitted that they have not collected Rs. 247.38 Crore from LS and MS Consumers and challenged the order in APTEL vide Appeal No. 04 of 2021. Accordingly, the Commission has considered fixed charges of Rs. 247.38 Crore as revenue from sale of power as the same should have been collected by PSPCL as per the Commission's order.”

e) As per above observations given in the tariff order the Commission observed that there was a gap between revenue from sale of power as per Annual Audited Accounts and revenue worked-out with reference to sales units as per actual billing data intimated by PSPCL at the approved tariff rate of various categories. PSPCL reasoned, that many a times, when a consumer complains of excess/wrong billing, the field office generally corrects/modifies the bill thereby amending the amount due in his account. However, such corrections in units are not rectified/adjusted in the billing data, resulting in recording of excess/less units in comparison to the sales booked. This has resulted in differences in accounting

figures and billing data. Thus, keeping in view this gap in financial reconciliation, the Commission concludes that the difference is due to non-reconciliation of financial and technical data within PSPCL's organisation.

- f) Once the reconciliation of billing is done and correctly reflected in the Annual Audited Accounts and the financial gap is closed with technical data, the perceived revenue difference challenged by PSPCL in their submissions based on billing during the year would be duly adjusted in the audited accounts of the forthcoming years. The extra billing/underbilling adjustment would find appropriate space in the reconciled billing data in the audited accounts, thus making this issue revenue neutral.
- g) So far as the considering the amount of Rs 247.38 crores under revenue, the relevant para in the order under review has been reproduced above which is self-explanatory and clear.

Thus, no new record or evidence has been produced (which was not within the knowledge of PSPCL at the time when the data was furnished by PSPCL and order was passed by the Commission) nor has any mistake or error apparent on the record been pointed out to justify any review. As such the prayer for review of the earlier Order on this issue is not admissible and is denied.

VIII TRANSMISSION AND SLDC CHARGES PAYABLE TO PSTCL

PSPCL's Submissions:

- a) PSPCL submitted that in paragraph 3.6 of the Tariff Order the Commission has allowed Rs. 1367.52 Crore as Transmission & SLDC charges for the FY 2020-21 as payable to PSTCL. It is pertinent to mention here that during FY 2020-21 amount booked

in Account Code-70.402 (SLDC Charges) also includes an amount of Rs. 44,69,659/- paid by BBMB to NRLDC as Regional Load Dispatch Centre Fee and Charges, according to CERC (Fees and charges of Regional Load Dispatch Centre and other related matters) regulation 2019. It is respectfully submitted that the amount paid by BBMB to NRLDC has not been considered by the Commission while truing up the FY 2020-21 and ought to be allowed.

Commission's Analysis:

- b) PSPCL has made a new submission in the Review Petition that an amount of Rs. 44,69,659/- is paid by BBMB to NRLDC as Regional Load Dispatch Centre Fee and Charges, according to GERC [Fees and charges of Regional Load Dispatch Centre and other related matters) Regulation 2019. The GH 70.402 of the trial balance for SLDC charges show an amount of Rs. 44,69,659.00 paid by BBMB to NRLDC. PSPCL has already claimed these charges of Rs.44,69,659/- paid by BBMB to NRLDC under the head of Power Purchase which was considered and allowed as per PSERC Regulations.

Thus, no new record or evidence has been produced (which was not within the knowledge of PSPCL at the time when the data was furnished by PSPCL and order was passed by the Commission) nor has any mistake or error apparent on the record been pointed out to justify any review. As such the prayer for review of the earlier Order on this issue is not admissible and is rejected.

IX INTEREST ON LONG TERM LOANS

PSPCL's Submissions:

- a) PSPCL submitted that the Commission has not fully allowed the interest and finance charges as claimed by PSPCL and has reduced the same.
- b) PSPCL further submitted that it has claimed interest of Rs. 798.35 crore for long term loans for FY 2020-21. However, the Commission has allowed the interest of Rs. 611.59 Cr. The Commission has approved the capital expenditure by not considering capital expenditure on specific borrowings such as Shahpur Kandi Loan Scheme. Further on page 11 of True Up for capital expenditure for 1st MYT Control Period (FY 2017-18 to 2019-20) Capital expenditure of Rs. 196.30 crore on Pachhwarra Coal Mines was not included by the Commission in the Capital Investment Plan approved by the Commission. Hence interest cost of the same is not included in interest and finance charges approved by the Commission. However, interest on specific borrowing of Shahpur Kandi Loan amounting to Rs. 91.97 crores and interest on general borrowings on Pachhwarra Coal Mines has been reduced as capitalization of interest charges from interest and Finance Charges allowed, which is not in order. It is therefore submitted that interest cost of Rs. 798.35 crore represents the actual interest paid by PSPCL, hence the same needs to be allowed in full by the Commission.
- c) PSPCL further submitted that PSPCL had claimed "*Other Interest*" of Rs. 68.48 crore on actual paid basis. However, the Commission has not allowed any amount against the same. This amount mainly includes the interest on advance deposit of electricity bills and discount/rebate allowed to consumers and

interest to suppliers/consumers. As such, it is requested that the Hon'ble Commission may reconsider the facts and allow the *Other Interest* of Rs. 68.48 crore on actual payment basis.

Commissions Analysis:

- d) The Commission has determined Interest & Finance Charges as per Regulation 24 of PSERC MYT Regulation 2019 on normative basis. The commission allows 100% funding as per the approved capex and not on actual loans taken.
- e) In the order under review the Commission while truing-up the capex for the 1st Control period, under para 2.2 in its Tariff Order dated 31.03.2022 has rightly disallowed the capital expenditure of Shahpur Kandi Power Project (SKKP) and Pachhwarra Coal Mines amounting to Rs.515.51 crore and Rs.196.30 Crore respectively as per the para 2.2 as reproduced below:

“PSPCL has incurred capital expenditure on Shahpur Kandi Power Project (SKKP) and Pachhwarra Coal Mines amounting to Rs. 515.51 Crore and Rs.196.30 Crore respectively during 1st MYT Control Period which was not included in CIP approved by the Commission in Petition No.46 of 2016. The capital expenditure on SKPP shall be considered upon commissioning of the project. Further, as coal mining is a separate business the capital expenditure for Pachwarra mine cannot be considered as part of the distribution or generation business.”

- f) The actual interest charges corresponding to borrowings on SKPP and Pachwarra coal mine shall be capitalized only after the commissioning of SKPP and the Pachwarra Mine.

- g) Further, while allowing interest on long term loans, interest capitalized as per annual audited account is reduced from the total interest worked out as per past practice as interest capitalized is added in the capital cost of the projects/schemes.
- h) PSPCL has submitted a new claim in the review petition that Rs.68.68 crore was paid as interest on advance deposit of electricity bills and discount/rebate allowed to consumers and interest to suppliers/consumers. Such advance payments reduce the burden of working capital interest which has been allowed fully as per the Regulations-25 on normative basis. Thus, this additional interest claimed is not allowable.

The Commission has correctly determined Interest charges, as such the prayer for review of the earlier Order on this issue is not admissible.

X INTEREST ON WORKING CAPITAL

PSPCL's Submissions:

- a) PSPCL submitted that it has claimed the interest on working capital loans on the basis of actual interest paid against the loans availed by PSPCL, whereas the Commission has allowed the interest on normative basis.
- b) Further, it is also submitted that while working out the normative working capital for FY 2020-21, the Commission has reduced power procurement cost for one month i.e., Rs.1688.05 crore whereas in the True-Up of FY 2019-20, the same was not reduced. It has made a huge impact on interest on working capital allowed by the Commission in FY 2020-21. Therefore, the reduction of Power Procurement cost needs to be reviewed by the Commission.

Commission's Analysis:

- c) Interest on working capital has been allowed on normative basis and not on actual loan taken as per Regulation 25 of PSERC MYT Regulation-2019.
- d) As per Regulation 43.2 of PSERC Regulation 2019 applicable for 2nd Control Period from FY 2020-21 to FY 2023-24, components of Working Capital for Retail Supply business shall cover the following:

- (a) O&M Expenses for retail supply business for 1 month;*
 - (b) Maintenance spares @ 15% of the O&M expenses for retail supply business; and*
 - (c) Receivables equivalent to 2 months of average of revenue from sale of energy, approved by the Commission in the ARR;*
- Less*
- Consumer Security Deposit*
- One month of power procurement cost including associated cost*

In case of true up of FY 2019-20, PSERC Regulations, 2014 were applicable which allowed power procurement cost for two months. However, while assessing working capital requirement for FY 2020-21 for retail supply business, power procurement cost for one month was correctly reduced as per Regulation 43.2 of PSERC MYT Regulations-2019, since, Regulation of 2014 were no longer applicable and Regulations of 2019 were in place which allowed power procurement cost of only one month.

Thus, no new record or evidence has been produced (which was not within the knowledge of PSPCL at the time when the

data was furnished by PSPCL and order was passed by the Commission) nor has any mistake or error apparent on the record been brought out to justify any review. As such the prayer for review of the earlier Order on this issue is not admissible and is denied.

XI Return on equity

PSPCL's Submissions (Additional submission)

- a) PSTCL submitted that as per Clause 1.2 of the Memorandum of Understanding (hereinafter being referred to as "**MOU**") between PSPCL and the Government of Punjab under the UDAY Scheme, 75% of PSPCL' debt as on 30/09/2015 (amounting to Rs. 15,628.26 Crores) was to be taken over by the Government of Punjab.
- b) In compliance of the MOU, non-SLR bonds amounting to Rs. 15,628.26 Crores were issued by the Government of Punjab and the said bonds were transferred to PSPCL as Government of Punjab loan up to FY 2019-20 i.e. till 31.03.2020. The said loan was thereafter converted into equity.
- c) PSPCL further submitted that the amount of Rs. 15,628.26 Crores includes the capital expenditure loans amounting to Rs. 2,246.77 Crores and working capital loans of Rs. 13, 381.49 Crores. This Commission has allowed interest on Rs. 2,246.77 Crores up to FY 2019-20 being capital expenditure loans. However, the Commission disallowed the interest on working capital loans used for the capital expenditure from FY 2010-11 to FY 2018-19.
- d) PSPCL further submitted that amount of Rs. 2,346.19 Crores of working capital loans has been used for capital expenditure and the said expenditure was duly approved by this Commission.

- e) PSPCL submitted that in view of the above facts and circumstances, the Return on Equity on Rs. 4,592.96 Crores (2,246.77 + 2,346.19 Crores) along with equity capital of Rs. 6,081 Crores ought to be allowed to PSPCL for FY 2020-21 (true up), FY 2021-22 (APR) and FY 2022-23 (ARR).

Commission Analysis:

The Commission allowed interest from FY 2015-16 to FY 2019-20 on Rs. 2246.77 crore on loans taken for capital expenditure under UDAY Scheme. These loans were actually repaid to the financial institutions during FY 2015-16 and FY 2016-17 and Non SLR Bonds were transferred to PSPCL as Government of Punjab loan. PSPCL has been claiming 100% funding for capital expenditure from 2010-11. The Commission vide its order dated 31.03.2022 in para 3.21 observed as under:

“The Commission has not considered the amount of Rs. 4592 Crore (Rs. 2346.19 Crore + Rs. 2246.77 Crore) in addition to amount of Rs. 6081 Crore to admissible equity for return. Accordingly, no addition of equity has been considered by the Commission to the opening equity of FY 2020-21 on account of conversion of UDAY loans of Rs.2246.77 Crore as it is not utilized for meeting the capital expenditure for new Projects. Similarly, Rs. 2346.19 Crore as claimed by PSPCL which was diverted for capital expenditure funding is also not considered for infusion towards equity as these were working capital loans of prior period.”

- f) PSPCL had raised similar issue of disallowance of interest on working capital loans used for capital expenditure in Review

Petition no.05 of 2017 in Petition no.90 of 2016 and the Commission in its order dated 03.04.2018 rejected the review. The relevant text from the decision is reproduced below:

“In view of the above, FY 2010-11 to FY 2013-14, whose True-Up has already been concluded cannot be re-opened. Further, in all previous years, the Commission had allowed the interest on long term loans for capital expenditure as per the claim of the petitioner. In addition to the long term loans, the Commission had also allowed interest on General Provident Fund as claimed which had been utilized for the purpose of capital investment as per PSPCL. The petitioner had never claimed advance against depreciation in the previous years though it is provided for in the relevant regulations. It is only in the review petition that petitioner is raising the new claim of advance against depreciation.

The scope of an application for review is restricted and the Commission can review its Order on discovery of new or important matters or evidence or if it is shown that Orders sought to be reviewed suffer from some mistake/error apparent on face of record or other reasons which in the opinion of the Commission is sufficient for reviewing the earlier Order/decision. This claim of the Petitioner is not tenable and cannot be considered as ‘mistake apparent from record’.

This issue raised by PSPCL has already been dealt with clearly, adequately and repeatedly by the Commission even in its earlier orders reproduced above. There is no reason to revisit the issue. Thus, the

Commission has correctly considered equity capital of Rs.6081.42 Crore and allowed return on equity of Rs. 974.74 Crore for FY 2020-21.

Thus, no new record or evidence has been produced (which was not within the knowledge of PSPCL at the time when the data was furnished by PSPCL and order was passed by the Commission) nor is there any mistake or error apparent on the record to justify any review. As such the prayer for review of the earlier Order on this issue is not admissible and is therefore denied.

XII SUBSIDY FOR FY 2020-21

PSPCL's Submissions:

- a) PSPCL submitted that the Commission has trued up the subsidy for the FY 2019-20 in Tariff Order for the FY 2021-22 and similarly for all previous tariff Orders issued by this Commission. However, while issuing the Tariff Order for the FY 2022-23, the Commission has not trued up the amount of subsidy along with carrying cost for FY 2020-21 and has not computed the amount payable by the Government of Punjab to the PSPCL on account of Subsidy. PSPCL requested to true-up the subsidy amount for FY 2020-21 along with carrying cost and the amount payable by the Government of Punjab to PSPCL on account of Subsidy.

Commission's Analysis :

- b) PSPCL in its True-Up Petition has claimed subsidy of Rs 11091.00 Crore for FY 2020-21 based on the Audited Annual Accounts of FY 2020-21. The Commission has worked out the category wise subsidy payable by GoP for FY 2020-21 as under:

Table 1: Subsidy payable by GoP for different Categories for FY 2020-21

(Rs. Crore)

Sr. No.	Category	Allowed by the Commission
1.	AP Consumption (including FCA)	7458.53
2.	Scheduled Caste (SC) / Domestic Supply (DS) free power	1583.26
3.	Non-SC/BPL DS consumers	86.99
4.	Backward class DS consumer free power	272.92
5.	Small Power (concessional tariff @ Rs.499 paise per unit)	137.34
6.	Supply to Freedom fighters	0.04
7.	Medium Supply Consumers	160.50
8.	LS supply consumers	1261.00
9	Total	10960.58

Note:

- In case of AP consumption, PSPCL records AP consumption at feeder level and the Commission allows the same by considering normative line losses as per the approved trajectory of losses for computing AP consumption at consumer end. At sr.no.1, A.P. Consumption works out as 12817.29 MUs. The AP consumption for two months April 2020 and May 2020 is 889.21 MUs and next ten months from June 2020 to March 2021 is 11928.08 MUs. The subsidy for this consumption comes to Rs. 7113.44(889.21MUs x 528 paise + 11928.08 MUs x 557 paise). Rs. 345.09 crore is the additional AP surcharge as decided in Petition No.25 of 2019. Thus, the total amount of AP subsidy comes to Rs.7458.53 (Rs.7113.44 + Rs.345.09) crore.*
- Consumption of all other categories tally with PSPCL figures*

as consumption is recorded at consumer end.

- *Subsidy amounts from Sr. No.2 to 8 have been taken as per audited annual accounts of PSPCL for FY 2020-21 (inclusive of additional surcharge).*

- c) **Interest on delayed payment of subsidy:** There was a shortfall of Rs. 5598.60 Crore subsidy paid by GoP as on 1st April, 2020 as calculated by the Commission in order dated 28.05.2021 in Petition no. 45 of 2020. The GoP has paid Rs.9656.95 Crore as subsidy to PSPCL during FY 2020-21 in staggered instalments. The Commission observed that there was delay in payment of subsidy to PSPCL in FY 2020-21. With a view to compensate PSPCL on this account, the Commission levies interest on the delayed payment of subsidy @10.13% (effective rate of interest on working capital loan) which works out to Rs.798.99 Crore (Annexure attached).
- d) **Accordingly, the subsidy payable for FY 2020-21, inclusive of interest on delayed payment of subsidy, has been determined by the Commission as Rs.17358.17 (5598.60+10960.58+798.99) Crores against which GoP had paid subsidy of Rs.9656.95 Crore. As such, there is shortfall of payment of subsidy by the GoP due to PSPCL amounting to Rs.7701.22 (17358.17-9656.95) Crores at the end of FY 2020-21 (i.e. as on 31.03.2021).**

XIII TRANSMISSION CHARGES PAYABLE TO PSTCL

PSPCL's Submissions:

- a) PSPCL submitted that during FY 2021-22 transmission charges of Rs. 1331.71 crore were passed on to PSPCL by this commission which included an impact of Rs. 0.75 crore for GAP of FY 2017-

18 to FY 2019-20. However, in the present tariff order (FY 2022-23) while conducting APR of FY 2021-22, this gap of Rs.0.75 crore has not been allowed to PSPCL. It is submitted since the gap has already been taken into account during previous tariff exercises, the same may be allowed.

Commission's Analysis

The commission has rightly determined the transmission charges of Rs.1331.71 Crore in the ARR of FY 2021-22(para 4.16 of PSTCL tariff order FY 2021-22) but during APR of FY 2021-22 in tariff order of FY 2022-23, Rs. 0.75 Crore (considered Rs.1330.96 crore instead of Rs.1331.71 crore) was inadvertently not considered in table no 134 in tariff order of FY 2022-23 of PSTCL. Therefore, transmission charges of Rs.0.75 Crore along with carrying cost will be given at the time of true up of FY 2021-22 to PSPCL.

XIV SUBSIDY FOR FY 2021-22 & 2022-23

PSPCL's Submissions:

- a) PSPCL submitted that the Commission in Para 7.4 of the tariff Order has held that PSPCL may recover the subsidy from the Government of Punjab bases on the tariff of the relevant section. The Commission has also observed that the grant of any subsidy would be governed by the provisions of Section 65 of the Electricity Act, 2003. Section 65 of the Electricity Act, 2003, in this regard reads as under:

65. If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section

61, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by the State Commission shall be applicable from the date of issue of orders by the Commission in this regard.

- b) PSPCL further stated that, in all previous Tariff Orders, the Commission has determined the amount of Subsidy which is to be payable by the Government of Punjab to PSPCL. In line of the previous Tariff Orders, the Commission is requested to determine the amount of subsidy payable by the Government of Punjab to the PSPCL.
- c) PSPCL further stated that in terms of the above provisions, it is clear that any subsidy is to be taken into account by this Commission for the purposes of computation of tariff only if such subsidy is paid in advance by the State Government. PSPCL submitted to review the tariff Order to bring in line with the provisions of Section 65 of the Electricity Act, 2003.

Commission's analysis

- d) The Commission will consider subsidy payable by the GoP for FY

2021-22 in the true up of FY 2021-11 and for FY 2022-23 in the next tariff order for FY 2023-24.

XV. Norms of Operation for True up of FY 2020-21, APR for FY 2021-22 and Revised Estimates for FY 2022-23

• **GGSSSTP**

PSPCL's submission:

- a) The Commission has incorrectly considered the norms of operation for PSPCL' own thermal generating stations. The operating parameters like Specific Oil Consumption, Auxiliary Consumption, and Station Heat Rate are affected adversely owing to various reasons inter alia operation of the thermal plants at part load & frequent unit start/stops.
- b) Various restrictions are imposed by Power Controller, Patiala in the shape of higher backing down/shutting down of the units due to high frequency/low system demand which is beyond the control of GGSSTP. These directions have to be strictly followed to maintain the Grid discipline
- c) The effect of part load running & frequent Unit start/stops on various parameters viz Station Heat Rate, Specific Oil Consumption, and Auxiliary Consumption are mentioned below:
 - i. Specific Oil Consumption - Oil is consumed mainly for facilitating start-up of the units and sometimes for flame stability when the units are run at part load and when certain issues arise such as poor coal quality, equipment failure etc. Specific oil consumption is directly proportional to the number of starts of the units and more the stoppage time more is the quantity of oil required for start-up. In FY 2020-21, specific oil consumption due to generation was 0.42 ml/KWh out of the

total of 2.77 ml/kWh upto March 2021. Specific oil consumption due to commissioning after annual overhaul (approved) was 0.00 ml/kWh. Due to no demand the specific oil consumption was 2.37 ml/Kwh. Therefore, specific oil consumption due to Generation was only 0.42 ml/kWh.

- ii. Auxiliary Power Consumption - The Auxiliary Power Consumption (MUs) does not decrease proportionally when the units are operated at partial load and also the power is required to run the minimum essential standby auxiliaries of the stopped units to safeguard the main equipment. Thus, the running of units at partial load increases the auxiliary power consumption percentage (%) owing to less generation.
- iii. Station Heat Rate - The SHR is badly affected due to ageing of units, partial load operation of the units and number of start/stops of units. For the period ending March 2021 the reserve outage remained at 83.28% and the remaining percentage includes planned outage as well. Due to cyclic power demand in the State of Punjab, huge variation is faced in power demand during day and night hours. GGSSTP Units are subjected to operate at partial load or even have to shut down due to low power demand. These operating conditions badly affect plant performance and SHR. It is pertinent to mention that many a times during backing down the units have to run at as low as 150 MW of load and at this level of partial load operation the SHR is further deteriorated than those mentioned for 170 MW.

The main equipment at GGSSTP are of BHEL design and make. BHEL acknowledges the variation in heat rate of turbine due to ageing (as specified under DIN 1943 (German National Standard)

and the relevant extract in 'Performance Guarantee Test Report' of BHEL is reproduced is as under:

Primary factors involved in ageing are:-

1. Salt deposition on blades.
 2. Deterioration of surface finish of blades.
 3. Increase in the clearances in the blading flow path.
 4. Deposits in Heat Transfer Areas.
 5. Increase in losses of valves seats.
- iv. The Deterioration in SHR on account of the ageing of Units worked out as per DIN 1943 specifies the increase ranging from 20.24 % to 23.84% above the Guaranteed Heat Rate values putting the average SHR to the value of 2750 Kcal/Kwh for age upto March 2021. This is further deteriorated by approximately 2% to 3% due to partial load operation of units. GGSSTP units are of vintage and are running for more than 36 years and no major R&M has been carried out so far. By giving due consideration for ageing of GGSSTP Units and their operation on account of cyclic power demand conditions of the state of Punjab the SHR should be allowed on higher side.
- **GHTP**
- d) The Commission has allowed SHR of 2430 Kcal/KWh for GHTP Units-I, II & III and 2387 Kcal/KWh for GHTP Unit-IV for FY2020-21. The accurate calculation of heat rates separately for Unit-I to III and Unit-IV is not possible due to the reason that some amount of energy is consumed commonly for all the units, such as FO tank heating, PRDS charging, running of Circulating Water Pumps etc. Therefore, it would be better if a

single value of SHR is approved for the station as a whole. It is submitted that the SHR is badly affected due to ageing of units, parallel load operation of the unit and number of start/stops of the units. For the period ending March 2021, the reserve outage remained at 86.47%.

- e) Further, due to PPAs with large-capacity IPPs in the State of Punjab, the share of PSPCL' own thermal plants have reduced considerably. With operation of these plants at low plant load factor (PLF), it is almost impossible to meet up with the approved heat rate norms for GHTP Units. The actual heat rates for GHTP Units-I, II & III and GHTP Unit- IV for FY2020-21 have been 2613 & 2512 Kcal/KWh respectively on the basis of GCV of receipted coal minus compensation of 85 Kcal/Kg.
- f) Also, GHTP Units- I & II are about 24 years old & Units-III & IV are about 14 years of vintage. It is a demonstrated fact that performance of any mechanical equipment does not remain constant over the useable life of the equipment due to wear and tear of normal operation and other factors like ageing. Therefore, a relaxation in SHR on the basis of low PLF and ageing should be given.
- g) The most important factor affecting the SHR of thermal units is the calorific value of coal used for generation. Maintaining the SHR to specified value requires using coal having 'Specified Calorific Value' as per the designed parameters of the thermal unit. Since, GHTP receives coal from three CIL subsidiaries namely CCL, BCCL and SECL, scattered distantly from each other, the calorific value of the coal received from these sources differs from each other. It is a matter of fact that the

quality of coal received from CCL, BCCL and SECL is not generally as per the declared grade of the colliery. In view of the above, the Commission may fix 2500 kCal/kWh as single value of SHR for GHTP station as a whole, instead of separate heat rates for its different Units.

h) The Commission has approved the specific oil consumption for GHTP as 0.5 ml/kWh for FY2021-22. Due to frequent backdowns, start/ stops and load shedding as per system requirement, the actual specific oil consumption for GHTP station during FY2020-21 was 2.432 ml/kWh. As there is no substantial improvement in the system demand, the trend of frequent backdowns, start/ stops and load shedding is likely to continue in the coming years, which is beyond the control of GHTP. Therefore, the Commission is requested to allow specific oil consumption of 1.0ml/kWh, as was earlier allowed by the Commission for GHTP Station before FY2014-15.

i) For calculating SHR of GHTP Units, the Commission has ordered the GCV of receipted coal to be used with a drop of 85 Kcal/Kg in GCV due to variation during storage. GHTP being at the farthest end from the collieries, a normative stock of 10 days requirement has to be kept at the plant. Due to weathering of coal, fixed carbon, elemental carbon and hydrogen decreases and sulphur of coal increases. Rise in sulphur content contributes to spontaneous heating of coal (smoldering) in the stockpile. As such, the exposure of coal to these condition leads to oxidation of coal that result in deterioration of the GCV during storage. The high ambient temperature of State of Punjab during a majority of the months throughout the year also leads to local combustion and

smoldering of coal stored in the stock yard. Further, the increase in moisture content of coal during rainfall on the coal stock stored at thermal power stations also lead to decrease in GCV of stored coal. All the factors mentioned above, contribute to decrease in GCV of coal stored in the Stockyards of thermal power stations and lead to increase in difference between GCV of Received coal and Bunkered coal. This leads to some loss of GCV due to weathering. As the SHR is directly linked with the actual coal fired into the boiler, therefore for computing true SHR of a plant, only GCV of bunkered coal should be allowed; or alternatively, a drop of at least 150 Kcal/Kg in GCV may be allowed between receipted coal & bunkered coal.

- j) The Commission has approved auxiliary power consumption as 8.5% for GHTP. However, due to frequent backdowns, start/ stops and load shedding as per system requirement, the actual auxiliary consumption for FY2021-22 was 9.64%. This trend of frequent backdowns, start/ stops and load shedding is likely to continue, which is beyond the control of PSPCL. Therefore, the Hon'ble Commission may be requested to revise the APC limit to 9.0%.

Commission's Analysis:

- i. The Commission observes that, it has already dealt with the issue of relaxed parameters raised by PSPCL in respect of GGSSTP & GHTP in detail under para 3.8 and 3.9 in the Tariff Order and the relevant extract of the same is reproduced below:

“3.8 Norms for Operation of Generating Station

3.8.1 Auxiliary Consumption, Station Heat Rate (SHR) and Secondary fuel consumption

...Commission's Analysis:

- i) *The Commission observes that, Proviso (vi) to the Regulation 6.3 B of IEGC provides that “the compensation so computed shall be borne by the entity that has caused the plant to be operated at schedule lower than corresponding to Normative Plant Availability Factor up to technical minimum based on the compensation mechanism finalized by the RPCs”. Since, PSPCL has tied up 100% of the generation of its plants for its own use and PSPCL also manages both the businesses of generation and distribution in the State, as such, PSPCL itself is responsible for the coordinated operation of its plants as well as scheduling of power from the same.*
- ii) *Also, PSPCL has entered into PPAs with other generators including IPPs being well aware of its own generation capacity and consumer demand. PSPCL also purchases power from outside sources (including short-term power) even at the cost of backing / shutting down its own units after evaluating all commercial aspects including deterioration of operating parameters of its own units.*
- iii) *Moreover, it is observed that PSPCL's own thermal plants being low on MOD are used as peaking units only i.e. they are required to run continuously at almost full load during the Paddy season only and remain shut down during the remaining part of the year*
- iv) *The Commission also observes that Regulation 6.3B of CERC (Indian Electricity Grid Code) (Fourth Amendment)*

*Regulations, 2016 is an amendment in the Indian Electricity Grid Code Regulations not in the Tariff Regulations and the same has not been adopted by the Commission in its State Grid Code. The Hon'ble APTEL in its Judgment dated 22.08.2016 in Appeal No. 34 of 2016 in the matter of Jaiprakash Power Ventures Limited versus Madhya Pradesh Electricity Regulatory Commission and others has held that there is no legal mandate as per IEGC for a Intra-State Generating Station to maintain the Technical Minimum as per the provisions of IEGC and in the absence of any such mandatory provisions the obligation to schedule power is traceable only to PPA entered between the parties. The relevant extract is as under: **"...In the absence of any mandatory provision either under the IEGC notified by the Central Commission or the State Grid Code notified by the State Commission or under any other statutory Regulation, the obligation of Respondent No. 3 to schedule power is traceable only to the PPA executed between Respondent No. 3 and the Appellant. Clause 6.3B (4) of the IEGC also affirms the above in respect of the generating stations other than the Central Sector Generating Stations and Inter State Generating Stations***

The provisions of the PPA do not contain any mandate on Respondent No. 3 to schedule a specific quantum of electricity, though it provides for payment of fixed charges for any unscheduled available capacity within the contracted capacity. On the other hand, Clause 7.1.1 of the PPA specifically provides that the Appellant shall be responsible to

operate and maintain the generating station in accordance with the legal requirements and in particular, the Grid Code.”

As per IEGC 2016, in order to claim compensation because of lower schedule, provision under Clause 6.3 B (4) provides that

“In case of a generating station whose tariff is neither determined nor adopted by the Commission, the concerned generating company shall have to factor the above provisions in the PPAs entered into by it for sale of power in order to claim compensations for operating at the technical minimum schedule”

In view of above in the absence of any statutory requirement or PPA conditions mandating the Respondent No. 3 to schedule minimum quantum of power from the generating unit of the Appellant, the Respondent No. 3 cannot be compelled to schedule at near constant load or the quantum of power to reach the Technical Minimum of 140 MW for the generating unit of the Appellant to operate. The Appellant must have made necessary arrangements for sale of balance power (other than the contracted capacity of 70 % with the Respondent No 3) so as to avoid any such situations where the unit has to operate below technical minimum causing difficulties in the operation of the Unit and causing financial distress to the Appellant.

We do not find any error on the related issues raised by the Appellant in the Impugned Order issued by the State Commission.

Hence all the issues as above are decided against the Appellant...

The Commission observes that, Proviso (vi) to the Regulation 6.3 B of IEGC provides that “the compensation so computed shall be borne by the entity that has caused the plant to be operated at schedule lower than corresponding to Normative Plant Availability Factor up to technical minimum based on the compensation mechanism finalized by the RPCs”. Since, PSPCL has tied up 100% of the generation of its plants for its own use and PSPCL also manages both the businesses of generation and distribution in the State, as such, PSPCL itself is responsible for the coordinated operation of its plants as well as scheduling of power from the same.

v) With regards to PSPCL’s request to invoke powers under Regulation 66 and 67 of the PSERC MYT Regulations, 2019 for relaxation of norms, the Commission notes that the Hon’ble APTEL vide its Judgment dated 18.09.2015 in Appeal No. 196 of 2014 and 326 of 2013 in the matter of Haryana Power Generation Corporation Ltd. versus Haryana Electricity Regulatory Commission and others has observed as under:

“..... Further if the relaxation of the norms is not in public interest the same is bound to be rejected. Further, if the said contention of the appellant is accepted it will result in further increase in tariff which will cause additional burden on the respondents and ultimately the end consumers of the electricity. ...In the case in hand the State Commission has rightly and legally refused to exercise the power to relax in

favour of the appellant on this aspect while passing the impugned order....

No doubt discretionary power is vested with the State Commission but the discretion should be exercised judicially and judiciously that needs recording of special reasons in writing for the exercise of such power to relax.”

vi) The Commission refers to PSERC Tariff Regulations, 2019 specifies as under:

“35. NORMS FOR PERFORMANCE PARAMETERS The norms for performance parameters for a Generating Company i.e., availability, load factor, station heat rate, specific oil consumption, auxiliary consumption etc. Shall be as per the CERC norms or as determined by the Commission...”

Thus, the Commission is considering the normative parameters for Auxiliary Consumption, Station Heat Rate (SHR) and Secondary fuel consumption as per norms specified by CERC in its Tariff Regulations, 2019”

- ii. PSPCL has tied up 100% of the generation of its plants for its own use and manages both the businesses of generation and distribution in the State, as such, PSPCL itself is responsible for the coordinated operation of its plants as well as scheduling of power from the same.
- iii. It is further reiterated that Regulation 6.3B of CERC (Indian

Electricity Grid Code) (Fourth Amendment) Regulations, 2016 is an amendment in the Indian Electricity Grid Code Regulations not in the Tariff Regulations and the same has not been adopted by the Commission in its State Grid Code.

- iv.** Regulation 35 of the PSERC MYT Regulations, 2019 specifies that norms for performance parameters shall be in accordance with CERC norms. Units 4 of GHTP had its COD on 25.01.2010 which is after 01.04.2009, so its normative heat rate is 2387kCal/kWh. The other units are having COD before 01.04.2009 hence they have been allocated normative heat rate of 2430kCal/kWh. As the fuel cost is allowed on normative basis so there is no difference in fuel cost whether calculated on single weighted average value or a different value.
- v.** CERC fixes the normative parameters for Heat rate in respect all the central generating units of the country. The units commissioned before 01.04.2009 have been allocated higher normative heat rate than the design heat rate. It is suggested that PSPCL may study the effect of ageing on heat rate and may provide statistical data to back up their claim.
- vi.** Regarding difference in coal quality, PSPCL should take up the matter with coal companies. PSPCL has not substantiated the effect of coal quality on heat rate in the petition. It is suggested that PSPCL may study the effect of coal quality on heat rate also and may provide statistical data evidence to support their claim.
- vii.** Regarding GCV, it is noted that the Commission has considered the GCV on 'as received basis' in line with CERC Tariff Regulations, 2019 which provides for Gross calorific value of

coal as received, less 85 Kcal/Kg on account of variation during storage at generating station. The same norm has been adopted by the Commission in line with its MYT Regulations. Further, the Hon'ble APTEL in judgment dated 29.04.2022 on the issue of GCV has also observed as under:

“82. It is clear, that the State Commission is bound by its own Regulations and therefore, shall act in accordance with the principle laid down there. Any methodologies, may be different, followed earlier, have to be corrected and modified accordingly. We, therefore, reject the Appeal on this issue and the Impugned Order on this count is upheld

- viii. The Commission observes that no new or important matter or evidence has been produced (which was not within the knowledge of PSPCL at the time when the decision/order was passed by the Commission) nor is there any mistake or error apparent on the face of the record. As such the prayer for review of the earlier Order on this issue is disallowed.**

The Review Petition is disposed of in terms of the above.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 08.02.2023