

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No. 1 of 2014
Date of Order: 31.01.2014**

In the matter of: Petition for amendment of the Aggregate Revenue Requirement (ARR) and Transmission Tariff / SLDC charges pursuant to Section 62 (4) of the Electricity Act, 2003 read with Regulation 5 of the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005, and its subsequent amendments thereof for FY 2013-14 as approved by the Commission in the Tariff Order dated 10th April, 2013

AND

In the matter of : Punjab State Transmission Corporation Limited (PSTCL), 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 petition under Section 62 (4) of the Electricity Act, 2003 read with Regulation 5 of the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005, and subsequent amendments thereof regarding amendment in the Tariff Order dated 10th April, 2013. In the Tariff Order for FY 2013-14, the Commission approved the ARR of ₹ 1144.79 crore for STU and ₹ 33.70 crore for SLDC aggregating ₹ 1178.49 crore for PSTCL. After adjusting the Revenue gap (alongwith the carrying cost) for FY 2012-13, the cumulative ARR for FY 2013-14 was approved at ₹ 1269.74 crore.

The Petitioner filed a petition for approval of ARR & determination of Tariff for FY 2014-15 which is admitted by the Commission on 18th Dec, 2013. The petitioner, in the said petition had, submitted the revised estimates of ARR for FY 2013-14 amounting to ₹ 1044.78 crore comprising ₹ 1023.76 crore for STU and ₹ 21.02 crore for SLDC based on the actual figures of first half and projection for remaining half of FY 2013-14 for review. The Petitioner estimated the revenue surplus of ₹ 224.86 crore for FY 2013-14 for PSTCL (STU+SLDC) as a whole.

Subsequently, PSTCL filed petition No. 1 of 2014 under Section 62 (4) of Electricity Act, 2003 seeking amendment in Tariff Order dated 10/04/2013

The Petitioner has prayed that the Commission may pass following orders:

- (a) Amend the Tariff Order dated 10th April 2013 by reduction of the ARR/Tariff as approved by the Commission for FY 2013-14 in their tariff Order dated 10th April, 2013
- (b) Issue suitable order in this regard at the earliest so that the tariff could be implemented and the previous arrears may be adjusted in the bills of January, February and March, 2014 which have to be raised to PSPCL and the benefit of such amendment could be passed on to the consumers through reduced fuel cost adjustment charges.
- (c) Condone any inadvertent omission/errors/shortcomings and permit the Petitioner to add/change/modify/alter/clarify this filing and make further submissions as may be required at a future date.
- (d) Pass such further orders, as Commission may deem fit and proper keeping in view the facts and circumstances of the case.

The Petition was admitted vide order dated 08.01.2014 and PSPCL was directed to file reply by 17.01.2014

PSPCL, in its reply dated 20.01.2014, submitted as under:

“ The Petition of PSTCL is quite delayed and hardly any time is left for adjustment of Tariff to the extent ARR of PSTCL is reduced but in order to save the consumers of Punjab from the unnecessary burden of statutory payment which shall arise due to undue surplus of STU, Commission may decide to reduce the revenue requirement of State Transmission Utility for FY 2013-14 and carry forward the same in the revised estimate of FY 2013-14 of Distribution Licensee for adjustment in the ARR projected for FY 2014-15 of Distribution Licensee without affecting the tariff of FY 2013-14.”

PSPCL has further submitted:

“ The prayer of PSTCL to adjust the reduction in ARR of STU with the FAC Surcharge is delayed as PSPCL has already levied FCA surcharge w.e.f 1.1.2014 based on 2nd Quarter of FY 2013-14”.

After hearing arguments of PSPCL & PSTCL on 21.01.2014, the hearing of the case was closed and order was reserved.

The prayer of the PSTCL is examined in the light of the provisions of the Electricity Act, 2003 as well as PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005. Section 62 (4) of the Electricity Act, 2003 clearly mandates:

“(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.”

Also, Regulation 5 of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 clearly defines the periodicity of Tariff determination as below:

“(5) PERIODICITY OF TARIFF DETERMINATION

No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of the Fuel Cost Adjustment Formula specified by the Commission.”

Regulation 41(1) of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 clearly stipulates that the Commission shall issue a tariff order within 120 days from the date of receipt of tariff petition. Regulation 41(2)(a) and (b) of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 states as under:

“(2) The Commission shall, within one hundred and twenty days from the date of receipt of Tariff Petition and after considering all suggestions and objections received from the public:

(a) issue a tariff order determining the ARR and Tariff with such conditions as may be specified in that order. The Tariff Order-----

Or

(b) reject the tariff petition for reasons to be recorded in writing if such petition is not in accordance with the provisions of the Act and the Rules and Regulations made there under or the provisions of any other law for the time being in force:

Provided that generating company or the licensee shall be given a reasonable opportunity of being heard before rejecting the Tariff Petition.”

Moreover, Licencee can file a petition for the determination of Tariff as per Regulation 13 of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 which states:

“(13) FILING

1. *Each generating company and the licensee shall file Tariff Application on or before 30th November each year with the Commission, in the format as may be laid down by the Commission which shall include statements containing calculation of the expected aggregate revenue from charges under its currently approved tariff and the expected cost of providing services i.e. Aggregate Revenue Requirement (ARR) during the Previous Year, Current Year and Ensuing Year. The information for the Previous Year should be based on audited accounts, if available.*

The Tariff -----”

The provision of Electricity Act, 2003 as well as Regulation 5 of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 clearly states that no tariff or part of any tariff may be amended more frequently than once a year except under the terms of Fuel Cost Adjustment. Also, Regulation 13 of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 has laid down a time frame for filing a tariff petition.

It is amply clear from the above that the petition for amendment of Tariff Order dated 10th April, 2013 is not in line with the provisions of the Electricity Act, 2003 as well as PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 as the petition does not seek an amendment in tariff on account of Fuel Cost Adjustment.

The Commission also observes that the word “*ordinarily*” in the line “*No tariff or part of any tariff may ordinarily be amended*” in provisions of the Electricity Act,

2003 as well as Regulation 5 of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005 means that tariff should not be amended in ordinary circumstances. The Petitioner has not referred to any extraordinary circumstances in his petition to merit an amendment in tariff. Moreover, the Petitioner seeks to revise tariff on estimates alone which are based on data for FY 2011-12, other past trends, regulatory norms and activities that are planned for FY 2013-14. There is no sufficient cause to amend the tariff order based on estimates in revenue requirement.

The Commission also notes that any revision in transmission charges will affect the tariff order of PSPCL also and PSPCL has objected to any such change. PSPCL has submitted as under:-

“PSPCL has no objection in case the ARR of State Transmission Utility for FY 2013-14 is reduced to the extent as requested by them and Commission may decide to reduce the revenue requirement of State Transmission Utility for FY 2013-14 and carry forward the same in the revised estimate for FY 2013-14 of Distribution Licensee for adjustment in the ARR projected for FY 2014-15 of Distribution Licensee without affecting the tariff of FY 2013-14.”

PSPCL has prayed that any such adjustment to reduce revenue requirement of STU for FY 2013-14 may be carried forward to the revised estimates for FY 2013-14 of distribution licensee for adjusting in the ARR for FY 2014-15.

The Commission notes that PSTCL has already filed the ARR petition for FY 2014-15 which includes review for FY 2013-14. The review exercise for FY 2013-14, true up for FY 2010-11 and FY 2011-12 and projection for FY 2014-15 is under process for determination of Tariff for FY 2014-15. The process/procedure for determination of Tariff for FY 2014-15 or amendment in Tariff Order for FY 2013-14 is the same. In both cases the Commission has to seek suggestions and objections from the public as per Regulation 41(2) of PSERC (Terms and Conditions for determination of Tariff) Regulations, 2005. The procedure of amendment in Tariff Order of FY 2013-14 will take time and after amendment in Tariff Order of FY 2013-14 of PSTCL & PSPCL, the implementation of amendment may not be feasible at the fag-end of the financial year as PSPCL has already pointed out. Moreover, the revised estimates for PSTCL FY 2013-14 are being scrutinized in the ARR Petition

for FY 2014-15. Change, if any, in the revenue requirement of PSTCL will also be considered in the ARR of PSPCL for FY 2013-14 and FY 2014-15. Thus, the Commission thinks it appropriate to consider the review of PSTCL for FY 2013-14 while finalizing the ARR Petition for FY 2014-15. A separate amendment of ARR of PSTCL for FY 2013-14 is at this point is neither legally correct nor feasible. The Commission, therefore, rejects the petition of PSTCL for amendment in Tariff Order for FY 2013-14.

The Petition is, accordingly, disposed of.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Date: 31.01.2014