

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY
COMMISSION AT RANCHI**

Case No. 12 of 2020

Tenughat Vidyut Nigam Limited (TVNL).....Petitioner

Versus

Jharkhand Bijli Vitran Nigam Limited.....Respondent

**CORAM: HON'BLE SHRI R. N. SINGH, MEMBER, (ENGINEERING)
HON'BLE SHRI P. K. SINGH, MEMBER, (LEGAL)**

For the Petitioner :Ms. Richa Sanchita, Advocate

For the Respondent : Mr. Kaushikeya Jeta, Representative, JBVNL

ORDER

Date –14th October, 2020

1. This Review Petition dated 3.06.2020 is brought by Tenughat Vidyut Nigam Limited (hereinafter referred to as 'TVNL or the 'Petitioner')under Section 94 of the Electricity Act, 2003 read with the Regulation 41(1)(2)& (3) of the JSERC (Conduct of Business) Regulations 2016 for review of the Tariff Order dated 28.02.2020 related to **Truing up of FY 2014-15 & Provisional True-up of FY 2015-16, and ARR for the control period of FY 2016-17 to FY 2020-21** of the petitioner TVNL passed by this commission in Case (T) no. 04 & 12 of 2017.
2. The Petitioner in its Review Petition has prayed for the following:-
 - a. To admit the Petition as per the Provisions of the Section 94 (1) (f) of the Electricity Act, 2003 read with the Regulation 41 of JSERC (Conduct of Business) Regulations, 2016 and Regulation 6.12 and Regulation 6.13 of the Generation Tariff Regulations, 2010;
 - b. To allow the Review of the order dated 28th February, 2020 passed by Hon'ble Commission;
 - c. To condone the delay in filing the review petition by the petitioner.
 - d. To review, reconsider, modify and/or clarify the said order in terms of the submission made above;
 - e. To allow the recovery of the financial impact of Review by way of suitable mechanism;
 - f. To pass any such order/s and/or direction/s, which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.
 - g. To condone any error/omission and to give opportunity to rectify the same;
 - h. To permit the petitioner to make further submissions, additions and alteration to this petition as may be necessary from time to time.
3. The Petitioner in its review Petition initially brought for review of the said order on following counts:-

- I. O & M Expenses approved in the True-up of FY 2014-15.
 - II. O & M Expenditure Norms approved for FY 2017-2021.
 - III. Station Heat Rate approved in the True-up of FY 2014-15.
 - IV. Secondary Fuel Oil Consumption approved in the True-up for FY 2014-15 and Secondary Fuel Oil consumption for FY 2014-15.
 - V. Auxiliary Consumption approved in the True-up for FY 2014-15 and Auxiliary Consumption Norms approved for FY 2017-FY 2021.
 - VI. Payment of Interest on Debt.
 - VII. Capital Investment and additional capitalization.
 - VIII. Capital Investment Plan, Depreciation, Interest on working capital and Return on equity True-up for FY 2014-15 & Norms approved for FY 2017-FY 2021.
4. Subsequently the Petitioner by its supplementary affidavit dated 23.09.2020 submitted that petitioner is only pressing the review petition on the issue of O & M expenses approved for FY 2015-16. Since the other points have not been pressed, we have not considered the points raised in the main review petition.

O & M Expenses approved in the True-up of FY 2014-15

Submission of the Petitioner

- a. The Petitioner submitted that the Commission has approved Rs. 35.35 Cr as R&M expenses for True-up of FY 2014-15 against an approved R & M expenses of 107.90 Cr and as per audited accounts R&M expenses are Rs. 58.54 for FY 2014-15 out of which Stores & spares consumed expenses is amounting to Rs. 23.19 Cr could not be considered by this Commission.
- b. The Petitioner has requested the Commission to Review the approved O&M expenses in accordance with Regulation 6.12 and Regulation 6.13 of the Generation Tariff Regulations, 2010..

Submission of the Respondent

- a. The Respondent submitted that the Petitioner TVNL has proposed O & M expenses as approved in MYT Order dated 30.05.2012 for First Control Period of FY 2012-13 to 2015-16 in accordance with Regulations 6.12 and Regulations 6.13 of Generation Tariff Regulations, 2012.
- b. The Respondent further submitted that the Hon'ble Commission in its Order dated 28th February, 2020 of TVNL has approved O & M expense in light of Regulations and submission of TVNL.
- c. It was pointed out that the Petitioner itself had submitted actual O & M expenses for approval, as such the Order of the Hon'ble Commission was after considering all relevant facts and also there was no error apparent in the face of record.

- d. It was further pointed out that the Review of order regarding O & M expenses has no valid ground and hence should be rejected.

Commission’s Observation and findings

- a. The Commission while determining the O&M expenses for the year FY 2014-15 has approved the following:

Table 1: Approved O&M expenses for the year FY 2014-15

O&M Expenses	Approved in MYT Tariff Order	Actuals Submitted Now	Approved now True-up FY 2014-15
A&G Expenses	22.29	14.71	14.89
R&M Expenses	107.90	53.39	35.35
Employee Expenses	36.30	50.59	36.55
Terminal Liabilities	-	-	15.53
Total	166.50	118.69	102.32
CSR		-	-
Total O&M Expenses	166.50	118.69	102.32

- b. The Commission while approving the O&M expenses for the year opined as:-

“The Petitioner has claimed the O&M expenses as per its actual for the year. The Commission has considered the actual R&M expenses as per audited accounts as the Petitioner has not incurred the R&M expenses on its generation units in line with approval granted in the MYT Order.

The Commission has reviewed the O&M expenses and terminal liabilities as per the audited accounts for FY 2014-15. The Commission approves the O&M expenses as per the audited accounts after giving due consideration to the submissions of the Petitioner, interest of all stakeholders and assessment of the actual costs incurred by the Petitioner during the year.”

- c. The actuals submitted by the Petitioner in the petition are in variance with that given in the audited accounts for FY 2014-15. It may be for the reason that as the petitioner had submitted the Petition in November 2017, whereas the Audited accounts for FY 2014-15 was submitted on October 14, 2019. Since, there was variation as highlighted, the Commission as a part of prudence check had relied on the audited statements submitted by the Petitioner for FY 2014-15 to approve the O&M expenses.
- d. It is observed that the A&G expenses approved is Rs. 14.89 Cr against a claim of Rs. 14.71 Cr and for Employee expenses including terminal liabilities, the audited figure of Rs. 52.08 Cr was approved in place of Rs. 50.59. Hence the Commission had approved higher values than what has been claimed as per the audited accounts for the mentioned heads under O&M.
- e. Further, for R&M expenses, the petitioner had claimed Rs. 53.39 Cr (Table 6 of the Petition dated November 2017) without submitting any break-up of R&M incurred on P&M, office equipment, stores and consumables etc. and since, there was variation as highlighted, the Commission approved the R&M expenses of Rs. 35.35 Cr as per audited accounts without approving amount of Rs. 23.19 Cr for stores and spares consumed as no break-up of stores and spares was available.
- f. Again, it is also important to highlight that Commission has approved Rs. 102.32 Cr in FY 2014-15 and Rs. 88.58 Cr in FY 2013-14, which is an increase of 15.5% over previous year. The Commission found that the increase in O&M expenses is quite substantial.

- g. Further, the year FY 2014-15 is under the purview of the JSERC Generation Tariff Regulations, 2010. As per Regulation 7.41

“(b) The Applicant shall submit details on O&M expenses as required by the Commission. The O&M expenses excluding terminal liabilities for the Base Year shall be determined based on latest accounting statements, estimates of the Generating Company for relevant years and other factors considered relevant.

“(c) The O&M expenses excluding terminal liabilities permissible towards determination of tariff for each year of the Control Period shall be determined after a prudence check by the Commission based on submissions of the Generating Company, previous years’ actual expenses and any other factor considered relevant.”

- h. As per the Regulation, the Petitioner should have submitted details of O&M expenses for prudence check by the Commission, which the petitioner failed to do so.
- i. The Commission has considered the submission of the petitioner in the review petition. The Commission finds that the Commission in the previous true-up of FY 2013-14 has approved the O&M expenses based on the submission of the petitioner after due prudence check. The details of O&M approved in FY 2013-14 is as given below

Table 2: Approved O&M expenses for FY 2013-14

O&M Expenses	Approved in MYT Tariff Order	Actuals Submitted Now	Approved now True-up FY 2014-15
A&G Expenses		13.37	13.37
R&M Expenses		57.21	57.21
Employee Expenses		18.00	18.00
Terminal Liabilities		-	-
Total	153.94	88.58	88.58
CSR		1.87	-
Total O&M Expenses	153.94	90.45	88.58

- j. The Commission is taking a similar stand in approving the revised O&M expenses for FY 2014-15. Since the Petitioner has not submitted any breakup of stores and spares consumer, the Commission is constrained to approve the entire amount of Rs. 23.19 Cr. Further, the Petitioner has submitted a claim of Rs. 118.69 Cr and the Commission is approving the revised O&M expenses capped at Rs. 118.69 Cr.

Table 3: Revised O&M expenses approved for FY 2014-15

O&M Expenses	Approved in MYT Tariff Order	Actuals Submitted Now	Approved in True-up FY 2014-15 in order dated 28.02.2020	Approved now post Review
A&G Expenses	22.29	14.71	14.89	14.89
R&M Expenses	107.90	53.39	35.35	51.72
Employee Expenses	36.30	50.59	36.55	36.55
Terminal Liabilities	-	-	15.53	15.53
Total	166.50	118.69	102.32	118.69
CSR		-	-	-
Total O&M Expenses	166.50	118.69	102.32	118.69

In view of the revision in O&M expenses, the changes in other heads are to be rectified as given below:-

Interest on working capital

- a. The Commission while approving the interest on working capital in Section 6.52 of the order dated 28.02.2020 had mentioned the following

“5.68 Regulation 6.14 of Generation Tariff Regulations 2010 specifies that the financing cost, which includes the cost of debt, **including working capital (interest)**, cost of equity (return) shall be trued up on the basis of actual/audited information and a prudence check by the Commission **at the end of the control period**. Accordingly, the Commission has followed the methodology adopted in the previous order, and hereby approves Rs. 29.79 Cr under Interest on Working Capital as per the MYT Tariff Order dated May’ 2012.”

- b. As per the above, the Commission had approved Rs. 29.79 Cr as per the MYT order dated May’ 2012. Hence, there is no change in interest on working capital for FY 2014-15.

Summary of Fixed cost determinants

- a. The revised table no. 17 of order dated 28.02.2020 shall be read as under

Table 4: Revised Summary of Fixed Cost components as approved for FY 2014-15 (INR Cr)

Particulars	FY 2014-15			
	MYT - approved	As proposed by TVNL	Approved by JSERC in order dated 28.02.20	Post Review and approved now
	Rs. Crore	Rs. Crore	Rs. Crore	Rs. Crore
O&M Expenses	166.50	118.69	102.32	118.69
Depreciation	70.92	75.23	53.03	53.03
Interest on Loan	49.93	103.06	49.93	49.93
Return on Equity	27.87	26.54	27.87	27.87
Interest on Working Capital	29.79	30.92	29.79	29.79
Cost of Secondary Fuel Oil	18.71	20.22	19.20	19.20
Total Fixed Cost	363.72	374.64	282.15	298.52
PAF based Incentive/ Disincentive			(16.90)	(17.88)
Annual Fixed Charges with Incentive			265.25	280.64
Income Tax on Incentive			-	-
Fixed Cost with Incentive			265.25	280.64
Less: NTI	16.91	36.58	35.70	35.70
Total Fixed Cost	346.81	338.06	229.55	244.94

Gap/ Surplus for FY 2014-15

- a. The revised table no. 18 of order dated 28.02.2020 shall be read as under

Particulars		Units	FY 2014-15
Total Fixed cost	A	Rs. Cr	244.94
Total Variable cost	B	Rs. Cr	334.09
Annual Revenue Requirement (ARR)	C = A+B	Rs. Cr	579.03
Total Amount Billed by TVNL as per Accounts	D	Rs. Cr	692.24
Gap/ (Surplus) for the year	E = C - D	Rs. Cr	(113.20)

True-up for FY 2015-16

- a. Since the True-up of FY 2015-16 is provisional, the Commission shall undertake the changes in O&M only during the final true-up of FY 2015-16 once the audited accounts of FY 2015-16 are submitted.

MYT for FY 2016-17 to FY 2020-21

- b. The Commission shall undertake any change in MYT period of FY 2016-17 to FY 2020-21 based on the final true-up of FY 2015-16.

Accordingly, it is ordered as

ORDER

5. This Review petition is allowed in terms of the above observation and findings. The other points as raised in the petition are rejected as not pressed.
6. Accordingly, the petition of the petitioner is disposed of.

Sd/-
Member (Legal)

Sd/-
Member (Engg.)