



**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.**

No. F.11(1515)/DERC/2017-18

**Review Petition No. 49/2017**

**In the matter of :   Petition   for   seeking   Review/Revision/clarification   of   the  
Commission's Tariff Order dated 31.08.2017 in Petition no. 17 of 2017  
and 24 of 2017.**

Tata Power Delhi Distribution Ltd.  
Through its: **Managing Director**  
33Kv Sub Station Building,  
Hudson Lane,  
Delhi 110 009

....**Petitioner**

**Coram: Sh. B.P. Singh, Member**

**ORDER**

(Date of Order: 12.12.2017)

1.     The instant Petition has been filed by TPDDL for review/revision/clarification of the following issues as contained in the Commission's Tariff Order dated 31.08.2017 in the Tariff Petitions filed by the Petitioner:

**(A)   True Up of Past Period upto FY 2013-14**

- i.   Inadvertently considered Lower Power Purchase Cost of Rs. 1846.15 Cr. For FY 2007-08 instead of Rs. 1882.10 Cr.;
- ii.   Disallowance of expenses relating to Income for Other Business;
- iii.   Error in allowance of past arrears for Anta Auriya and Dadri plants of NTPC;
- iv.   Interest on Short term gain FY 2012-13.

**(B)   True up for FY 2014-15 & FY 2015-16**

- i.   Other Business income: Direct expenses and profit share not allowed for FY 14-15 and FY 15-16;
  - ii.   Clerical Error in figures considered for normative rebate while Truing up Power Purchase Cost for FY 2015-16;
  - iii.   Computational Error while imposing Penalty in terms of Direction 5.96 of Tariff Order dated 31.07.2013;
  - iv.   Clerical Error while calculating the Carrying Cost rate for FY 2014-15.
2.     The Petitioner has also prayed to clarify the basis on which the deduction has been made along with list of transactions that have been disallowed in relation to overlapping banking transactions.

3. Pursuant to the Commission's Interim Order dated 23.10.2017; the Petitioner had a meeting with the officers of the Commission and has provided additional documents for consideration of issues.
4. The submissions made by the Petitioner have been considered and analysed to arrive at the decision. The issue wise analysis and decision are as follows:

**Issue No. 1.**

**Inadvertently considered Lower Power Purchase Cost of Rs. 1846.15 Cr. for FY 2007-08 instead of Rs. 1882.10 Cr.**

**Petitioner's Submissions**

- 4.1 At Para 3.105 of the Impugned Order, while deciding the present issue, the Commission has incorrectly observed that in the Tariff Order dated 29.09.2015, the net impact on the ARR of FY 2007-08 was nil since the amount of Rs. 35.94 Cr. (i.e., rebate earned by the Review Petitioner) was neither added in Power Purchase Cost and nor added in Non-Tariff Income (NTI).
- 4.2 The Commission vide its Tariff Order dated 29.09.2015 had revised the ARR and Revenue Gap for FY 2007-08 to FY 2012-13 wherein for FY 2007-08, the Commission instead of considering power purchase cost as Rs. 1882.10 Cr. (as rectified by it in Tariff Order dated 26.08.2011) has considered power purchase cost as Rs. 1846.15.
- 4.3 During the 1st MYT period (i.e. from 2007-08 to FY 2011-12), the rebate earned on the power purchase cost (upto 1%) was considered as a part of the Non-Tariff Income in the ARR and therefore, the rebate income was not netted off from the Power Purchase Costs. The same practice has been followed by this Hon'ble Commission for FY 2008-09 to FY 2011-12. As such, this Hon'ble Commission only in FY 2007-08 has reduced the power purchase cost from Rs. 1882.10 Cr. to Rs. 1846.15 Cr. by deducting rebate of Rs. 35.94 Cr. (i.e., Rs.1882.10 Cr. –Rs. 35.94 Cr.).
- 4.4 The Commission vide its Tariff Order dated 29.09.2015 had also revised the Non-Tariff Income of the Review Petitioner upto FY 2011-12, wherein for FY 2007 -08, it had considered Non-Tariff income as per audited accounts which is Rs. 103.91 Cr.
- 4.5 The Commission has not considered the fact that Non-Tariff Income as per audited accounts, i.e., Rs. 103.91 Cr. includes rebate of Rs. 35.94 Cr., which is evident from serial no. (e) of the break- up of the Non-Tariff Income.
- 4.6 Accordingly, out of the total rebate Income for FY 2007-08 of Rs 35.94 Cr., part of the Non-Tariff Income as per Audited Financials, the Hon'ble Commission has correctly considered the rebate Income of Rs 17.34 Cr as Non-tariff Income as 1% rebate Income and correctly reduced Rs 18.59 Cr of the rebate income over 1% as TPDDL share.

- 4.7 As such whilst deducting the rebate of Rs. 35.94 Cr. from Rs. 1882.10 Cr., the power purchase cost was already reduced from Rs. 1882.10 Cr. to Rs. 1846.15 Cr. Thereafter, while calculating the ARR for FY 2007-08, the Commission further deducted the Non-Tariff Income from ARR without considering the fact that the rebate Income has already been considered by the Hon'ble Commission under Non-Tariff Income.
- 4.8 The power purchase cost may be considered as Rs. 1882.10 Cr. For FY 2007-08 and the impact of the same on ARR may be allowed along with the carrying cost.

**Commission's Analysis**

- 4.9 Regarding the submission made by the Petitioner that the Commission has provided power purchase cost for FY 2007-08 as Rs.1846 Cr. instead of Rs.1882.10 Cr., it is observed that during 1st MYT period, the rebate earned on the power purchase cost (up to 1%) was considered as a part of the Non-Tariff Income (NTI) in the ARR and therefore, the rebate income was not netted-off from the power purchases. The same practice was followed during FY 2008-09 to FY 2011-12. But for FY 2007-08, the Commission first deducted rebate on power purchase cost from power purchase cost and NTI both resulting in nil impact on ARR during true-up of FY 2007-08 in tariff order dated 28.05.2009.
- 4.10 The Petitioner informed the Commission that it had earned rebate on power purchase of 17.35 Cr. in FY 2007-08 on account of up-to 1% rebate. Accordingly, in Tariff Order dated 29.09.2015, the Commission reduced NTI by Rs. 18.59 Cr. (35.94-17.35) and considered Power Purchase Cost as Rs. 1,846.15 Cr., whereas the same should be considered as Rs. 1,882.10 Cr. without netting-off rebate on power purchase cost against power purchase cost. The compilation of various Tariff Orders in this regard is as follows:

**Treatment of Rebate on Power Purchase Cost in various Tariff Orders**

**(Rs in Cr.)**

Particulars	T.O. 2010-11	T.O. 2011-12	T.O. 2015-16
Power Purchase Cost	1,882.10	1,846.15	1,846.15
Rebate on Power Purchase Cost	(35.94)	35.94	-
Net Power Purchase Cost	1,846.15	1,882.10	1,846.15
Gross NTI	103.91		103.91
Increase or (Decrease) in NTI	(35.94)	35.94	(18.59)
Net Impact on Power Purchase Cost	NIL	NIL	(35.94)

- 4.11 Therefore, difference of Rs. 35.94 Cr. may be allowed as power purchase cost for FY 2007-08, accordingly, the same shall be added in the revenue gap in the subsequent Tariff Order.

**Issue No. 2.**

**Disallowance of expenses relating to Income from Other Business Findings under review:**

**Petitioner's Submissions**

- 4.12 The additional expenses incurred for generating income from other business for FY 2012-13 has been erroneously disallowed. The Commission has observed that the Petitioner has submitted the audited certificate of other business, however there is no indication of Direct Expenses on account of other business in audited financial statements of the petitioner for FY 2012-13.
- 4.13 The Commission has not considered the statutory auditor certificate to meet the requirement of allowable direct expenditure with respect to Other Business income as set out in the Regulation 5.37 of Delhi Electricity Regulation (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011.
- 4.14 In accordance with the aforesaid Regulation, the Review Petitioner, while carrying out any other business, has to submit an allocation statement along with the tariff petition setting out the basis for allocation of all joint and common costs between the distribution business and such other business.
- 4.15 In fact, the earlier Tariff Regulation regarding Other Income of the licensee, i.e Regulation 5.26 of Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2007 also did not provide for separate indication for segregated expenses being directly attributable to the said other income incurred on account of other business in audited financial statements. In this regard it is noteworthy that Regulation 5.26 of MYT 2007 is pari-materia to Regulation 5.37 of MYT Regulations 2011.
- 4.16 As such, for the segregated expenses being directly and indirectly attributable to the said other business income incurred by the Review Petitioner has been separately provided through an Auditor's certificate.
- 4.17 As per Accounting Standard issued by the Institute of Chartered Accountants of India (the accounting regulatory body), there is no requirement for separate disclosure of expenses incurred to generate other business income in audited financial statement, but the certificate with respect to the same has been issued by the statutory auditors itself which completely serves the purpose of prudence check as required by the Hon'ble Commission to allow expense incurred in relation to generate other business income, which were also considered by the Hon'ble

Tribunal while deciding similar issue in Appeal No. 14 of 2012 in favour of the Review Petitioner.

- 4.18 This Commission has allowed income tax expenses on Other Business income, which is calculated on net amount by subtracting expenses from other business income, therefore expenses incurred to earn other business income need to be allowed as well. As such it appears that inadvertently the Commission has allowed income tax on net income (Revenue minus expenses) however, expenses are not allowed which have been deducted to get the resultant amount to pay income tax on the same.
- 4.19 In view of the aforesaid, The Direct Expenses sought by the Review Petitioner for generating income from other business for FY 2012-13 to the tune of Rs. 0.99 Cr. may be allowed.

### **Commission's Analysis**

- 4.20 The Petitioner has submitted that income tax of other business for FY 2012-13 has been allowed in Tariff Order dated 31.08.2017 pertaining to other business, however, the direct expenses incurred by the Petitioner for such other business of Rs.0.99 Cr. have not been considered. Further, the Petitioner has since submitted a Certificate from its statutory auditors vide letter dated 23.11.2017, wherein it has been indicated that direct expenses related to other business income has been incurred at Rs.0.99 Cr., which can be given effect to in the subsequent tariff order only.

### **Issue No. 3:**

#### **Error in allowance of past arrears for Anta, Auraiya & Dadri plants of NTPC**

#### **Petitioner's Submissions**

- 4.21 While allowing the cost incurred by the them for FY 2012-13 and FY 2013-14 towards past arrear bills of NTPC for Anta, Auraiya and Dadri Gas based Power Plants, pertaining to period prior to 01.04.2012, has inadvertently disallowed 0.19 Cr., which can be gauged from the following facts:-
- a) The Commission vide its Order dated 29.09.2015 has disallowed the power purchase costs incurred by the Review Petitioner after expiry of the Power Purchase Agreement with Anta, Auraiya and Dadri Plants of NTPC, i.e., after 31.03.2012.
  - b) The Review Petitioner by its letter dated 07.09.2016 has submitted that there have been certain power purchase costs which the Review Petitioner, had incurred during FY 2012-13 and FY 2013-14. The said power purchase costs pertains to bills of NTPC for Anta, Auraiya and Dadri Plants before 01.04.2012.
  - c) The Commission vide its Tariff Order dated 31.08.2017 has considered letter dated 07.09.2016 issued by the Review Petitioner and allowed

the past Arrear Bills raised by NTPC for Anta, Auraiya and Dadri Gas based Power Plants. However, inadvertently, the Commission has allowed Rs. 11.38 Cr. for FY 2012-13 and Rs. 2.61 Cr. for FY 2013-14, as against Rs. 12.47 Cr. in FY 2012-13 and Rs. 1.71 Cr. in FY 2013-14 as sought by the Review Petitioner by its letter dated 07.09.2016.

<b>Financial Years</b>	<b>Claim of the Petitioner (Rs. Cr.)</b>	<b>Cost allowed in Tariff Order dated 31.08.2017 (Rs. Cr.)</b>
FY 2012-13	12.47	11.38
FY 2013-14	1.71	2.61
Total	14.18	13.99
Difference	0.19	

- 4.22 The cost towards past Arrear Bills raised by NTPC for Anta, Auraiya and Dadri Gas based Power Plants, as sought by the Review Petitioner, by its letter dated 07.09.2016 may be allowed.

#### **Commission's Analysis**

- 4.23 During the Prudence check of past period arrear bills of Anta, Auraiya and Dadri, it was observed that TPDDL had claimed 108 bills bearing date of April 2014 amounting to Rs. 0.19 Cr. in FY 2014-15, whereas these bills pertain to FY 2013-14. Therefore, the Commission excluded from the segment of allowance of past period arrear bills of Anta Auraiya and Dadri for FY 2012-13 and 2013-14. However, the same was not included during truing-up of FY 2014-15 inadvertently.
- 4.24 In view of the above, Rs. 0.19 Cr. as past period arrear bills of Anta, Auraiya and Dadri for FY 2014-15 shall be considered in the subsequent Tariff Order.

#### **Issue No. 4:**

##### **Interest on Short term gain FY 2012-13**

##### **Petitioner's Submissions**

- 4.25 The Commission at Table 95 of the Tariff Order has allowed the impact of short terms gains for all the Financial Years starting From FY 2007-08. However, inadvertently, the Commission has not provided the impact of short term gains for FY 12-13 as the same was considered as Non-tariff Income in the Tariff Order dated 23.07.2014. It is therefore, humbly prayed before the Commission to provide the impact of short term gains for FY 2012-13 which comes out to Rs 2.30 Cr.
- 4.26 In its ARR Petition 56 of 2013 the Review Petitioner had claimed this amount, which was not allowed by the Commission in its Tariff Order dated 23.07.2014.

- 4.27 The impact of Rs. 2.30 Cr. on account of short term capital gains for FY 2012-13 may be allowed.

### **Commission's Analysis**

- 4.28 The Commission had considered the Short term gain for FY 2007-08 to 2013-14 in its Tariff Order dated 31.08.2017 as follows:

*“3.114 The Petitioner has submitted that Short term gain is on account of surplus equity available with the Petitioner on which he is not allowed any interest /return on equity.*

*3.115 The Commission is of the view that interest/ Short term gain on this surplus equity should be allowed to be reduced from the Non-Tariff Income based on the Hon’ble APTEL judgment dated July 30, 2010 in Appeal No. 153 of 2009. The impact has been considered in Table 95: Impact as approved by the Commission on account of implementation Hon’ble APTEL Judgments (Rs. Cr.)”*

- 4.29 However, the Short term gain for FY 2012-13 was inadvertently not considered in the said Tariff Order. Therefore, the Short term gain of Rs. 2.30 Cr. shall be considered in line with above extracts of the Tariff Order.

### **Issue No. 5:**

#### **Other Business income: Direct expenses and profit share not allowed for FY 14-15 & FY 15-16:**

#### **Petitioner's Submissions**

- 4.30 The Commission, while considering the present issue, has:
- Inadvertently considered the direct expenses towards other business, as part of A&G expenses of distribution business, which is not in line Regulations notified by the Commission and communication dated 25.05.2007.
  - Not allowed the share of the Review Petitioner as prayed in the ARR Petition Nos. 17 and 24 of 2017. The Commission has not even allowed 20% of the net revenue earned by the Review Petitioner as per Regulation 5(v) of DERC (Treatment of Income from Other Business of Transmission and Distribution Licensee) Regulations, 2005 (“Other business Regulations”).
- 4.31 Under the MYT 2011, the A&G expenses are controllable and form part of O&M Expenses in the ARR relating to distribution business only as determined by the Commission. As such the A&G expenses allowed in the ARR of the Review Petitioner only pertains to distribution business and does not include additional expenses incurred to generate business of Review Petitioner.

4.32 It will be appreciated by this Hon'ble Commission that the income from other Business was almost negligible in FY 2011-12 and correspondingly the other business expenses were only Rs. 0.77 Cr. in FY 2011-12. Therefore, considering the fact that 8% inflation has been allowed every year on Rs 0.77 Cr. along with efficiency factor of 4% for FY 2014-15 and FY 2015-16, an amount of Rs 0.93 Cr. for FY 2014-15 & Rs. 1.01 Cr. for FY 2015-16 has been allowed as normative other business expenses under the normative O&M expenses allowed to the Review Petitioner. Therefore, the fact that the entire business expenses of Rs. 10.90 Cr. for FY 2014-15 & Rs. 25.60 Cr. for FY 2015-16 were a part of the normative O&M expenses is not justifiable.

4.33 Further, the normative O&M expenses allowed by the Commission is much lower than actual expenses incurred by the Review Petitioner for every Financial Year which is also evident from the actual audited financials of the Review Petitioner.

4.34 The other business is carried out by the Review Petitioner in addition to wheeling and retail supply, in terms of Section 51 of the Act read with Other Business Regulations. Accordingly, the direct expenses incurred by the Review Petitioner are to be allowed separately. In this regard it is noteworthy that:-

a) This Hon'ble Commission on 28.11.2005 notified Income from other Business Regulations, which provides as under:

*"5...5) In addition to the sharing of costs under sub-clause (3) above, the Licensee shall account for and ensure due payment to the Licensed Business a certain proportion of revenues from the other Business. As a general principle, the Licensee shall retain 20% of the revenues arising on account of Other Business and pass on the remaining 80% of the revenues to the regulated business.*

*Provided that in case a change in the above provision regarding sharing of revenues is considered by the licensee, he may approach the Commission for change of the aforesaid sharing formula, with proper justification, for approval of the Commission."*

b) This Hon'ble Commission in its Communication No. F.3(69) /Tariff/DERC/2004-05/762 dated 25.05.2007, clarified as under:

"2. In this regard, a meeting was held in the Commission on 18.04.2007 wherein two issues were raised by NDPL's representatives:-

i) Whether the revenue to be shared between the consumers and the licensee has to be net revenue or gross revenue.

ii) The sharing ratio proposed by the Commission i.e. 80:20 does not provide enough incentive keeping in view the ratios which have been finalized by the Other Commissions including Punjab.

3. On the first issue, it is clarified that the sharing has to be done on the basis of net revenue since the cost incurred has to be apportioned out of the revenue earned in the Other Business. Regarding the sharing ratio, DERC's Regulations (Claus 5.5) prescribe a ratio of 80:20 though there is a proviso that in case a change in the above provision regarding sharing of revenue is considered by the licensee, he may approach the Commission with proper justification."

4.35 As evident from the above, the sharing of costs has to be done on the basis of the net revenue since the cost incurred by the Review Petitioner



has to be apportioned out of the revenue earned from Other business. As such earnings from the other business as well as the expenses incurred on the other business are not part of the A&G expenses of distribution business. Hence are required to be allowed separately.

- 4.36 Further, in terms of Regulation 2(m) of MYT 2011 other business means the other businesses of the Distribution Licensee under section 51 of the Electricity Act 2003. Regulation 5.1 (ARR for Wheeling) of MYT 2011 and Regulation 5.2 (ARR for Retail) of MYT 2011 itself provides that ARR would contain O&M expenses and income from the other business has to be deducted from the ARR. Accordingly, net income from other business is dealt separately.
- 4.37 The Commission in its Regulations as well as communication dated 25.07.2007 has been pleased to state that the net income from other business has to be shared between the Review Petitioner and the Consumer in the ratio of 20: 80, i.e., 20% is to be retained by the Review Petitioner and 80% is to be passed on to the Consumers, and the Commission can also allow for a change in the ratio of revenue share between the licensee and consumer.
- 4.38 As such the Commission has not allowed the revenue share from the income earned from the other business as sought by the Review Petitioner in the ARR Petition Nos. 17 and 24 of 2017. Without prejudice to the same, it is submitted that this Hon'ble Commission has not even allowed 20% of the net revenue earned by the Review Petitioner as per Regulation 5(v) of Other Business Regulation.
- 4.39 The Commission has allowed the Income tax on the net Income (after deducting expenses from the Income) but inadvertently, has not allowed the Other Business expenses as well the share of the Review Petitioner on the income from other business net of expenses, which is evident from Table 182 of the Tariff Order dated 31.08.2017. However, due to change in revenue allowable for other business expenses there will be a change in the income tax as well.
- 4.39 In view of the aforesaid, the Review Petitioner prayed to the Commission to:
- a) Separately allow Rs. 9.97 Cr. for FY 2014-15 and Rs 24.59 Cr. for FY 2015-16, the direct expenses incurred by the Review Petitioner towards other business.
  - b) Additionally allow Income Tax of Rs. 0.25 Cr. (Rs. 1.97- Rs. 1.72) for FY 2014-15 & Rs. 0.27 Cr. (Rs. 4.29 – Rs. 4.02 Cr.) for FY 2015-16.
  - c) Allow share of the Review Petitioner, from the income earned from other business as sought by the Review Petitioner in its ARR Petition No. 17 and 24 of 2017.

- d) Without prejudice to prayer (c), at least allow 20% of the net revenue earned from other business, which comes out to Rs. 1.09 Cr. for FY 2014-15 and Rs. 2.30 Cr. for FY 2015-16.

#### **Commission's Analysis**

- 4.40 TPDDL has since submitted copies of the Auditor Certificates for FY 2014-15 & FY 2015-16 vide letter dated 23.11.2017. In the Auditor certificates submitted by TPDDL the Auditor has indicated that the direct expenses for other business has been prepared by TPDDL on the basis of books of account and Regulation 4 of the DERC (Treatment of Income from Other Business of Transmission Licensee and Distribution Licensee) Regulations, 2005. As per Regulation 4(1)(c), the Auditor has to provide his opinion whether the statements have been properly prepared and give a fair view of the revenue, costs, assets etc. The Auditor has provided its opinion in Clause 8 of the said Certificates.
- 4.41 Therefore, based on Certificates submitted by TPDDL, the direct expenses for other business shall be allowed to TPDDL in subsequent Tariff Order.

#### **Issue No. 6:**

#### **Clerical Error in figures considered for normative rebate while Truing up Power Purchase Cost for FY 2015-16.**

#### **Petitioner's Submissions**

- 4.42 The Commission while truing up the Power Purchase Cost for FY 2015-16 has inadvertently considered wrong figures of normative rebate as submitted by the Petitioner and as approved by the Hon'ble Commission, which can be gauged from the following:-
- (a) This Hon'ble Commission at Table 154 has been pleased to approve the rebate on Power Purchase and Transmission cost as follows:-

**Table 154: Rebate on Power purchase and Transmission Cost (Rs Cr)**

Sr. No.	Particulars	Rebatable Amount	Rebate claimed by petitioner in	Rebate Calculated by the Commission
1	FY 2014-15	5,008.60	98.25	94.83
2	FY 2015-16	4,753.03	92.66	86.66

- (b) As rightly noted by the Commission in the Table quoted above, the Review Petitioner has claimed Rebate of Rs. 92.66 Cr. for FY 2015-16 and this Hon'ble Commission has been pleased to approve the rebate of Rs. 86.66 Cr. However, while truing Up the Power Purchase cost for FY 2015-16 as noted in Table 156, the Commission has inadvertently considered incorrect figures for normative rebate as Rs. 86.86 Cr. (as approved by the Commission). For ease of reference, Table 156 is reproduced as under:-

**Table 156: Trued-up Power Purchase Cost for FY 2015-16 (Rs Cr)**

Sr. No.	Particulars	Petitioner's Submission	Commission's Approval
....	.....	.....	....
6	Less: Normative Rebate not considering Rithala, Anta, Auraiya and Dadri Gas Power Plants	(92.65)	(86.86)
....	.....	.....	...

4.43 The normative rebate of Rs. 86.66 Cr. as recorded in Table 154 of the Tariff Order dated 31.08.2017 may be considered instead of incorrect figure of Rs. 86.86 Cr.

**Commission Analysis**

4.44 In Table-156 of the Tariff Order dtd. 31/08/2017 the normative rebate for Power Purchase Cost has been indicated as Rs. 86.86 Cr. whereas in Table-154 it is Rs. 86.66 Cr., which is an inadvertent typographical error. Therefore, the rebate in Table 154 shall be read as Rs. 86.66 Cr. in place of Rs. 86.86 Cr. However, there is no financial impact of the same in the ARR.

**Issue No. 7:**

**Computational Error while imposing Penalty in terms of Direction 5.96 of Tariff Order dated 31.07.2013**

**Petitioner's Submissions**

- 4.45 In terms of Directive 5.96 as contained under Tariff Order dated 31.07.2013, this Hon'ble Commission has inadvertently imposed penalty of 10% on the total amount collected through cash payment instead of imposing penalty on the total amount collected through cash payment which was over and above Rs. 4,000/- for FY 2014-15 and FY 2015-16.
- 4.46 The total amount collected through cash payment which was over and above Rs. 4,000/- for FY 2014-15 and FY 2015-16 was Rs. 11.44 Cr and Rs. 0.01 Cr. for FY 2014-15 and FY 2015-16 respectively.
- 4.47 This Hon'ble Commission has wrongly recorded in Para 3.337 that the amount collected over and above Rs. 4,000/- was Rs. 37 Cr. and Rs. 0.036 Cr. during FY 2014-15 and FY 2015-16 respectively.
- 4.48 Therefore, in view of the above, while imposing the penalty of 10%, on the Review Petitioner, the Commission has inadvertently imposed a penalty on 10% on the total cash collection of the Review Petitioner and not on the amount collected by the Review Petitioner over and above Rs. 4000/-.
- 4.49 The said error seems to be inadvertent and contrary to this Hon'ble Commission's own understanding, since, this Hon'ble Commission while imposing penalty on the other Discoms in NCT of Delhi has imposed penalty only on the amount collected by them over and above Rs. 4,000/-.

- 4.50 It is therefore humbly prayed before the Commission to rectify the inadvertent error by calculating the penalty of 10% on the amount collected by the Review Petitioner over and above Rs. 4000/-, i.e. Rs. 1.14 Cr. and Rs.0.0008 Cr. for FY 2014-15 and FY 2015-16 respectively

#### **Commission's Analysis**

- 4.51 The Commission had conducted Billing and Metering audit of TPDDL and appointed M/s Anil Ashok & Associates (Consultant) for the same. It is observed that the Commission has given direction regarding cash receipt in para 5.97 and not para 5.96 of the Tariff Order dated 31.07.2013.
- 4.52 The Consultant had also verified the instances where, in violation of direction given in para 5.97 of the Tariff Order dated 31.07.2013, the petitioner has collected cash in excess of Rs. 4000/-. Considering the report of the Consultant the penalty amount for FY 2014-15 is revised to Rs. 2.15 Cr from Rs. 3.70 Cr.

#### **Issue No. 8:**

#### **Clerical Error while calculating the Carrying Cost rate for FY 2014-15**

#### **Petitioner's Submissions**

- 4.53 There seems to be an error in computation of the carrying cost, i.e. 11.88% as allowed by this Hon'ble Commission for FY 2014-15. The carrying cost for FY 2014-15 as per the Review Petitioner comes out to be 11.98%, as evident from the following:-
- a) For FY 2014-15, this Hon'ble Commission while computing WACC & RoCE for FY 2014-15 and FY 2015-16 has considered the Rate of Interest on debt (rd) as 10.25% and return on equity as 16%.
- b) The Commission for the computation of the carrying cost rate for the 2nd MYT period (i.e. FY 12-13 to FY 15-16) has considered the same Rate of Interest on debt (rd) as used for the purposes of computation of WACC and return on equity as 16%.
- c) Therefore, for the computation of the carrying cost rate for FY 14-15, the Hon'ble Commission ought to consider the same Rate of Interest on debt (rd) as 10.25%.
- d) The rate of carrying cost for FY 2014-15 has to be computed as under:-  
**Rate of Carrying Cost** = Sum of **Rate of interest on debt (rd)** \* 70/100  
and **Effective Return on Equity** \* 30/100  
i.e.,  $10.25 * 0.7 + 16 * 0.3 = 11.98\%$

e) Accordingly, in terms of the aforesaid calculation, the computation of carrying cost for FY 2014-15 comes out to be 11.98%.

4.54 The Review Petitioner humbly prayed before the Commission that carrying cost of 11.98% for FY 2014-15 be allowed.

#### **Commission's Analysis**

4.55 In this regard, it is observed that the rate of debt has been inadvertently considered as 10.12% instead of 10.25% and accordingly, the carrying cost rate for FY 2014-15 shall be revised to 11.98% from 11.88%. The impact of the same shall be considered in the subsequent Tariff Order.

#### **Issue No. 9:**

#### **Amount deducted on account of Overlapping of Banking Transactions**

#### **Petitioner's Submissions:**

- 4.56 The Review Petitioner submitted that the Commission in its Tariff Order dated 31.08.2017 has deducted an amount of Rs. 3.24 Crs for FY 2014-15 and Rs, 0.18 Crs for FY 2015-16 on account of overlapping of Banking Transactions. However, no analysis and information regarding the disallowance has been shared with the Review Petitioner.
- 4.57 The Review Petitioner has since submitted that all the LOI's (Letter of Intent) for banking transactions were already entered by Tata Power Distribution Ltd. for FY 2014-15 & FY 2015-16 well before the issuance of Tariff Order dated 29.09.2015. It is worth to mention that the last banking LOI before for FY 2015-16 was issued on 18.09.2015 which is before the issuance of Tariff Order dated 29.09.2015.

#### **Commission's Analysis**

- 4.58 It is observed that due to inadvertent typographical error numbers of units in Overlapping of Banking Transaction were indicated as 45.75 MU against 35.75 MU for FY 2014-15. Therefore, disallowance for Overlapping Transactions for FY 2014-15 was considered as Rs. 2.54 Cr. against Rs. 3.24 Cr.
- 4.59 The Commission in its Tariff Order dtd. 29.09.2015 for True up of FY 2013-14 had disallowed Transmission Charges & Trading Margin for MUs which have been overlapped in Banking Transaction for all Delhi DISCOMs. The said issue is also challenged by the DISCOMs in Appeal before Hon'ble APTEL. Therefore, the same shall be considered appropriately after judgment from Hon'ble APTEL.

- 4.60 Also, as requested by TPDDL, the Tariff Division is directed to provide, within two weeks, the details of computation of disallowance under Overlapping of Banking Transactions to TPDDL.
- 5 The Petition is disposed of as per the directions and decisions contained in the paragraph 4 of this order.
- 6 Order accordingly.

**Sd/-**  
**(B.P. Singh)**  
**Member**