



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

No. F.11(1588)/DERC/2018-19/

Review Petition No. 31/2018

In the matter of : Review Petition seeking review of the order dated 28.03.2018, passed by the Commission in Petition no. 69 of 2017.

BSES Yamuna Power Ltd.

....Review Petitioner

Coram: Hon'ble Mr. Justice S S Chauhan, Chairperson

ORDER

(Date of Order: 13.12.2019)

1. The instant petition has been filed by M/s BSES Yamuna Power Ltd. (BYPL) for review/revision/clarification of the following issues as contained in the Commission's Tariff Order dated 28.03.2018 in Petition No. 69 of 2017.
2. The Review Petitioner has sought review on the following issues:
 - i. Omission in considering impact of issues allowed by the Commission in Review Order dated 22.03.2018 passed in Review Petition No. 66/2017;
 - ii. Omission to allow UI Interest considered as part of NTI for FY 2009-10 to FY 2011-12;
 - iii. Error in consideration of impact on account of R&M and A&G expenses for FY 2004-05 to FY 2006-07;
 - iv. Error in non-consideration of impact on account of change in service tax;
 - v. Error in consideration of write-back miscellaneous provisions as part of NTI for FY 2007-08 to FY 2016-17;
 - vi. Omission to deduct the amount of LPSC from Revenue for FY 2008-09;
 - vii. Error in consideration of impact on account of Merit Order dispatch (MoD) for FY 2013-14;
 - viii. Omission to withdraw/recall the Efficiency Factor for FY 2015-16;
 - ix. Error in computation of opening RRB for FY 2016-17;
 - x. Error in rate of carrying cost while computing the impact of APTEL Judgement and Review Order in Table 98;
 - xi. Error in Revenue Billed for computation of AT&C Loss for FY 2016-17;
 - xii. Omission to allow actual expenses incurred on account of statutory levies while truing up for FY 2016-17;
 - xiii. Error in allowing SVRS Pension amount as part of normative O&M costs for FY 2016-17;

- xiv. Error in disallowing cost of Power purchase on account of Anta, Auraiya & Dadri Gas based stations for FY 2016-17; and
 - xv. Error in consideration of rebate on credits received in FY 2016-17.
3. 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:

3.1 **Issue No. 1.**

Omission in considering impact of issues allowed by the Commission in Review Order dated 22.03.2018 passed in Review Petition No. 66/2017

Petitioner's Submission:

- 3.1.1 That while computing the impact of APTEL Judgement and Review Order in Table 98 of the Tariff Order dated 28.03.2018, impact on account of the following two issues have been omitted:
- i. Error in allowing the amount of Depreciation on Consumer Contribution for Capital Works considered as NTI for FY 2011-12 to FY 2013-14 (issue No. vii);
 - ii. Error in consideration of Rebate from DTL as NTI during FY 2013-14 (issue No. ix)

Commission's Analysis

- 3.1.2 The Petitioner had prayed that the transfer from consumer contribution towards capital works for FY 2011-12 to FY 2013-14 and FY 2014-15 to FY 2015-16 to be reduced from Non-Tariff Income in its Tariff Petition for FY 2017-18 (August 2017 Tariff order).
- 3.1.3 Regarding FY 2011-12 to FY 2013-14, the Petitioner had not claimed in its respective Tariff Petitions. The claim was made for the first time in Tariff Petition for which the Tariff order was issued in August 2017. As submitted by the petitioner, the claim for FY 2011-12 also includes the claim for FY 2010-11 for an amount of Rs. 2.16 Cr. for prior period. The Commission has already allowed Rs. 4.20 Cr. for transfer from consumer contribution towards capital works to be reduced from NTI in true up of FY 2010-11.
- 3.1.4 The financial statements were examined and it was observed that the said adjustment does not appear in the audited financial statement as part of the other income of the petitioner for FY 2011-12 and FY 2012-13. For FY 2013-14, the other income of the Petitioner included the income on account of transfer of depreciation on account of consumer contribution. The petitioner has submitted an auditor certificate issued by Shridhar & Associates Chartered Accountants providing the details of Depreciation on consumer contribution for capital works as follows:

Financial Year	Rs. Cr.	Reference
2011-12	5.78	Note 27 (Miscellaneous Income) under sub head "other income" of the Audited Accounts
2012-13	4.37	Note 27 (Miscellaneous Income) under sub head "other income" of the Audited Accounts
2013-14	4.67	Note 27 (Miscellaneous Income) under sub head "other income" of the Audited Accounts
Total	14.82	

The Audited Statements have been examined and it is observed that transfer from consumer contribution towards capital works for FY 2011-12 to FY 2013-14 has to be reduced from the Non-Tariff Income of the Petitioner. The impact of this review may be given in the subsequent Tariff Order.

3.1.5 The claim for FY 2014-15 to FY 2015-16 was allowed in Review Order dated 22.03.2018. The relevant extract of the Review Order is as follows:

“Commission’s Analysis

4.11 In this regard it is observed that that the amount of depreciation of Rs. 5.58 crore and Rs.6.00 crore corresponding to consumer contribution for capital works during FY 2014-15 and FY 2015-16, respectively have been allowed in para 3.548 of the Tariff Order dated 31.08.2017. However, the same have not been considered in final computation of Non-Tariff Income (NTI). The impact of the aforesaid amount of depreciation shall be considered in the subsequent Tariff Order.”

3.1.6 The impact of review has already been given vide Tariff Order dated 28.03.2018.

3.1.7 Similarly, the claim regarding rebate from DTL as NTI during FY 2013-14 has already been allowed vide Review Order dated 22.03.2018. The impact of the Review may be considered in the subsequent Tariff Order.

3.2 Issue No. 2.

Omission to allow UI Interest considered as part of NTI for FY 2009-10 to FY 2011-12

Petitioner’s Submission:

3.2.1 It is the grievance of the Petitioner that, in its Review Order dated 22.03.2018 (in Petition No. 66/2017), the Commission though has principally agreed that UI interest received in a particular year should not be treated as a Non-Tariff Income, it has allowed the amount pertaining to only FY 2013-14 on the premise that the said amount of Rs.21.17 Cr. has been indicated separately in Note 27 of the audited statement of the Petitioner for FY 2013-14. It has, hence omitted to consider the amount for FY 2009-10 to FY 2011-12 despite the fact that the benefit of the principal amount of UI receivable (though not actually received) had already been used to reduce the cost of power purchase Cost in those financial years.

3.2.2 To give an example, say in FY 2009-10 the total power purchase cost was Rs.1000 and the UI receivable (though not actually received) was Rs.100, and the power purchase cost allowed was Rs.900. Hence, though the UI amount was not

actually received in FY 2009-10, it was utilised to reduce the actual power purchase cost. The same UI of Rs. 100 is actually received by the Petitioner in say FY 2010-11 along with interest of Rs. 1. In the ARR of FY 2010-11, the UI interest of Rs.1 has incorrectly been treated as NTI.

Commission's Analysis

3.2.3 The petitioner has sought the claim in respect of UI interest as part of NTI for FY 2009-10 to FY 2011-12. In the tariff Order July 2012 the impact of UI interest for FY 2010-11 had been allowed. The relevant extract from the tariff order is as under:

“3.143 The Petitioner has submitted that it had earned a UI interest amount of Rs 0.15 Cr, on account of late settlement of UI receivables by the Petitioner, which it treats as a part of the income from energy. The Commission has decided to allow the net interest earning on account of UI payment settlement by reducing the funding towards such late settlements (@ 9.5% allowed for working capital), as shown in the table below:

Table 36: Funding of UI settlement (Rs. Cr)

Particulars	FY 2010-11
UI interest Collected (@ 18%)	0.15
Principle amount on which UI interest was charged	0.83
Interest Rate for funding of Principle of UI settlement	9.5%
Interest approved on funding of UI settlement	0.08
Net UI interest earned	0.07

3.144 Hence, the Commission has approved the amount of NTI as summarised below:

Table 37: Trued-up Non Tariff Income approved by Commission (Rs. Cr)

Particulars	Petitioner's Submission
Non Tariff Income as per audited accounts	148.93
Less:	
<i>Transfer from consumer contribution for capital works</i>	<i>4.2</i>
<i>Provision for doubtful debts / advances</i>	<i>66.4</i>
<i>Financing Cost of LPSC</i>	<i>9.14</i>
<i>UI interest</i>	<i>0.08</i>
Add:	
<i>Street Light Maintenance Charges</i>	<i>13.32</i>
<i>Interest on Consumer Security Deposit</i>	<i>15.07</i>
Total Non Tariff Income	97.51

3.2.4 The same has also been allowed to be reduced from the NTI by the Commission in Tariff Order dated 29 September 2015.

3.2.5 Based on the above methodology, the UI interest is allowed to be reduced from the Non-Tariff income for FY 2009-10 to FY 2011-12 as follows:

Financial Year	UI Interest (Rs. Cr.)
FY 2009-10	18.91
FY 2011-12	0.96

The impact of UI interest may be considered in the subsequent tariff Order.

3.3 Issue No. 3:

Error in consideration of impact on account of R&M and A&G Expenses for FY 2004-05 to FY 2006-07

Petitioner's Submission:

- 3.3.1 The issue pertains to the allowance of R&M and A&G expenses relying upon the report of the Consultant appointed by the Commission without sharing a copy of such report submitted to the Commission.

Commission's Analysis

- 3.3.2 The Consultant's Report dated 24.07.2015 was shared by the Commission with the Petitioner. The report is detailed and includes the exceptions checked by the Consultants.
- 3.3.3 The Consultant submitted the summarised report on the final values as per the audit conducted on 22nd December, 2015. Such report does not include any detailed computation as claimed by the Petitioner.
- 3.3.4 As the summarised report does not contain anything new, it was not considered necessary to share the summarised report with the Petitioner.
- 3.3.5 Further, the Commission decided to consider the figures for R&M and A&G expenses for FY 2004-05 as the values allowed during earlier true up based on the fact that such values have been submitted to the Commission by the Petitioner itself. The Commission relied on the submission so made by the Petitioner at the time of respective true up of the financial year and in view of passage of time of more than 10 years, it was difficult to audit the number of account. Therefore, the Commission decided to maintain the values as of FY 2004-05.
- 3.3.6 The Petitioner has not brought any pertinent new fact requiring review of the aforesaid decision by the Commission. Thus, this issue needs no further review.

3.4 Issue No. 4:

Error in non-consideration of impact on account of change in service tax

Petitioner's Submission:

- 3.4.1 The claim is for recovery of the incremental service tax paid on various operating expenses which are over and above the O&M expenses allowed (including service tax). Even if an 8% normative increase were applied on the service tax component, the Petitioner has, in fact, paid a larger amount towards service tax on account of (a) increase in the rate of service tax over the prevailing 2011-12 rate (b) payment of service tax on certain apparent expenses which were not eligible to service tax in 2011-12.

Commission's Analysis

- 3.4.2 The period under consideration i.e. FY 2012-13 to FY 2016-17 is governed by MYT

Regulations, 2011, wherein the definition for Targets for Controllable Parameters is stated in Regulation 4.7 as follows:

"4.7 The Commission shall set targets for each year of the Control Period for the items or parameters that are deemed to be "controllable" and which include:

(a) AT&C Loss, which shall be measured as the difference between the units input into the distribution system for sale to all its consumer and the units realised wherein the units realised shall be equal to the product of units billed and collection efficiency:

Provided that units billed shall include the units realised on account of theft measured on actual basis i.e. number of units against which payment of theft billing has been realised;

(b) Distribution losses, which shall be measured as the difference between the net units input into the distribution system for sale to all its consumer and sum of the total energy billed in its Licence area in the same year;

(c) Collection efficiency, which shall be measured as ratio of total revenue realised to the total revenue billed in the same year:

Provided that revenue realisation from electricity duty and late payment surcharge shall not be included for computation of collection efficiency;

(d) Operation and Maintenance Expenditure which includes employee expenses, repairs and maintenance expenses, administration and general expenses and other miscellaneous expenses viz. audit fees, rents, legal fees etc;

(e) Return on Capital Employed;

(f) Depreciation; and

(g) Quality of Supply."

3.4.3 Further, Regulation 5.3 of MYT Regulation, 2011 states:

"5.3 Operation and Maintenance (O&M) expenses shall include:

- a. Salaries, wages, pension contribution and other employee costs;
- b. Administrative and General expenses which shall also include expense related to raising of loans;
- c. Repairs and Maintenance; and
- d. Other miscellaneous expenses, statutory levies and taxes (except corporate income tax)."

3.4.4 In view of the above, it may be noted that the O&M expenses as determined by the Commission for the MYT Period FY 2012-13 onwards, includes all expenses, statutory levies and taxes. Any change, whether upward or downward on account of any head of expenses in the normative regime is to the account of the Petitioner/Licensee. The Petitioner has prayed for incremental service tax, which may not be considered as it would be against the spirit of the MYT Regulations, 2011 (Regulation 5.3 and Regulation 4.7). Further, this issue is already in appeal by the Petitioner under Appeal No.70 of 2018.

3.4.5 The Commission has already decided this matter in Tariff Order dated 28/03/2018. The relevant extract from Tariff Order dated 28/03/2018 is as follows:

"COMMISSION'S ANALYSIS

3.332 The Commission observed that the issue has already been decided by Hon'ble High Court of Delhi vide it's order dated 29/07/2016 in W.P.(C) 2203/2012 & C.M.

No.4756/2012 as follows:

“16. According to the petitioner, since the O&M expenses are required to be computed by applying a normative formula and there is no provision for truing up such expenses on account of any uncontrollable elements affecting such expenses, the impugned Regulations are violative of Section 61(b), 61(c) and 61(d) of the Act. It is also asserted that not providing for truing up of uncontrollable costs would also be contrary to paragraph 5.3(h)(4) of NTP, 2006. According to the petitioner, the O&M expenses constitutes several uncontrollable elements including (i) change in taxes, statutory levies(ii) minimum wages (iii) inflation (iv) service terms and conditions of employees transferred from erstwhile DVB; (v) increase in consumer base; (vi) costs relating to career growth and replacement of employees and inflation in repairs and maintenance expenses.

.....

22. The petitioner has been unable to establish that the tariff fixed according to the impugned Regulations would render the activity of distribution unviable and that no person could possibly recover his costs in carrying out the said business. Thus, we are also unable to accept that the impugned Regulations violate Article 19(1)(g) of the Constitution of India.

23. The impugned Regulations have been framed in exercise of powers conferred under Section 181 of the Act and are in the nature of subordinate legislation. It is well settled that scope of judicial review of subordinate legislation is very limited. And, any interference by this Court would not be warranted unless it is established that the impugned Regulations are inconsistent with the Act; are ultra vires the Constitution of India; or the due procedure for making such legislation has not been followed. In the present case, we are not persuaded that either of the said grounds have been made out.”

3.333 In view of the above, the Commission has not considered any impact due to change in service tax rate as O&M expenses have been approved on normative basis which includes statutory levies and taxes as per MYT Regulations, 2011.”

- 3.4.6 There is nothing brought on record by the Petitioner, which necessitates review of the aforesaid decision of the Commission.

3.5 Issue No. 5:

Error in consideration of write-back of miscellaneous provisions as part of NTI for FY 2007-08 to FY 2016-17

Petitioner's Submission:

- 3.5.1 While computing the Non-Tariff income for FY 2007-08 to FY 2016-17, there is an error in consideration of the provisions written back in a particular year as Non-Tariff Income. This is despite the fact that the write back was in respect of provisions which were originally not allowed as expenses by the Commission in the respective years.

Commission's Analysis

- 3.5.2 The Commission has decided this matter in Tariff Order dated 28/03/2018 as follows:

3.428 The Commission has already dealt this issue in detail in previous tariff orders, therefore, the provisions written back has not been allowed to be reduced from Non Tariff Income of the Petitioner.”

- 3.5.3 It is observed that the Petitioner had filed the above issue in the Appeal no. 290 of 2015 Hon'ble APTEL in the matter of BYPL vs DERC against the impugned tariff order dated 29/09/2015, which was later withdrawn in order to plead the matter

before the Commission as part of the Review petition against Tariff order dated 28/03/2018.

- 3.5.4 On this issue of error in consideration of the provisions written back in a particular year as Non-Tariff Income, there are two aspects, one related to O&M amount and other about doubtful debts. The Petitioner has submitted that provisions have been written back in various heads in the audited books of accounts, either on realisation of dues/movement of debtor or on account of non-use of O&M expenses earlier created in the Books of Accounts. In respect of written back provisions related to such O&M expenses, which had not been considered in the O&M cost, the same may be allowed subject to verification and prudence check of the audited statement of accounts and other relevant documents.
- 3.5.5 Regarding written back doubtful debts, it is observed that for the past few years, the collection efficiency of the Petitioner has been more than 100%, and it is usually possible when unrecovered past dues are being realised. The realised past dues may contain arrears and a portion of doubtful debts as well. In such a situation, the part of doubtful debts so realised will be treated as income because it has already been allowed to the Petitioner against collection efficiency, and therefore, no relief on such doubtful debts may be allowed. However, those doubtful debts, which have not been part of the collections efficiency, the same may be allowed provided the Petitioner is able to establish and prove that such amount of doubtful debts had not considered against the collection efficiency.
- 3.5.6 The claim of the Petitioner, accordingly, shall be considered in the next tariff Order subject to verification of data and prudence check.

3.6 Issue No. 6:

Omission to deduct the amount of LPSC from Revenue for FY 2008-09

Petitioner's Submissions:

- 3.6.1 The Tariff Order dated 28.03.2018 omits to deduct LPSC for FY 2008-09 from the Revenue while computing the Revenue available towards ARR although the same is required to be deducted from the revenue considered for the year since the revenue for the year has been considered on a normative basis. This, in fact, has been accepted by the Commission in para No. 3.217 of the Tariff Order dated 28.03.2018. However, in the computation in Table 16, the same treatment had not been carried through.

Commission's Analysis

- 3.6.2 The Petitioner has claimed that AT&C loss for FY 2008-09 was trued up on the basis of normative collection efficiency and accordingly, the amount of LPSC of Rs.20.68Cr. was not considered against the amount realized. On the other hand, the said amount of Rs.20.68 Cr. was considered as a part of Non-Tariff Income in

the Tariff Order dated 26/08/2011, and therefore, the Non-Tariff Income in FY 2008-09 is to be reduced by this amount.

- 3.6.3 It is observed that in the Tariff Order dated 26/08/2011, the amount of Rs.20.68 Cr. was reduced from the revenue available for FY 2008-09, however, in the subsequent Tariff Order dated 29/09/2015, the Non-Tariff income of the petitioner for FY 2008-09 was reconsidered and the amount of Rs.11.00 Cr. as financing cost of LPSC was reduced from the Non-Tariff Income (Table 3.32). In view of the aforesaid, the balance amount of Rs.9.68 Cr. (Rs.20.68 Cr. – Rs.11.00 Cr.) may be further reduced from the Non-Tariff Income of the Petitioner. The impact shall be given in the subsequent Tariff Order.

Issue No. 7

Error in consideration of impact on account of Merit Order dispatch (MoD) for FY 2013-14

Petitioner's Submissions:

- 3.7.1 The Commission while reconsidering the MOD issue for FY 2013-14 in Para 3.212 & 3.213 of the Tariff Order dated 28.03.2018, has not considered DISCOM-wise scheduling which was implemented by Delhi SLDC in February, 2014 onwards as per the Commission's directions dated 21.11.2013.
- 3.7.2 Further, in the Tariff Order dated 28.03.2018, in Para 3.212, the Commission has referred to and relied upon Para 3.400 of the previous Tariff Order dated 31.08.2017 which does not pertain to FY 2013-14 but pertained to FY 2014-15 and FY 2015-16.

Commission's Analysis

- 3.7.3 To deliberate on the issue, discussions were held by the officers of the Commission with SLDC and the Petitioner. During the discussion it was observed that SLDC had identified the slots, which were shared with the Petitioner. The Petitioner has sold surplus power in the Exchange while the Power plants under MOD were already operating above the Minimum Technical Limit in said slots. The Petitioner has furnished the details about the Revenue earned by selling such surplus power in the slots identified by the SLDC to arrive at the final impact of non-adherence of MOD. The additional information/statement as submitted by the Petitioner is not counter signed/certified by SLDC, Delhi.
- 3.7.4 In view of the above, during the subsequent Tariff determination exercise, on the basis of verification by SLDC regarding MoD/discom-wise scheduling, the claim of the Petitioner shall be considered.

3.8 Issue No. 8

Omission to withdraw/recall the Efficiency Factor for FY 2015-16

Petitioner's Submissions:

- 3.8.1 In the tariff petition it has prayed for recall of the efficiency factor for O&M

expenses for the years FY 2011-12 to FY 2015-16. The Tariff Order dated 28.03.2018 allows the recall of the efficiency factor for the FY 2011-12 to FY 2014-15 but omits to recall the efficiency factor for FY 2015-16.

Commission's Analysis

3.8.2 On the issue relating to arbitrary computation of efficiency factor, a clarificatory application was filed by DERC in APTEL. However, Hon'ble APTEL dismissed the clarificatory application observing that the direction of APTEL in this regard in Appeals Nos. 61 and 62 of 2012 has been challenged by DERC before the Hon'ble Supreme Court in Civil Appeals Nos. 8660-61 of 2015, which is pending adjudication.

3.8.3 Since the issue relating to computation of efficiency factor is currently sub-judice before Hon'ble Supreme Court, the effect of Efficiency factor for FY 2015-16 is provisionally allowed subject to the outcome of the Civil Appeals Nos. 8660-61 of 2015 pending in the Apex Court.

3.9 Issue No. 9

Error in computation of opening RRB for FY 2016-17

Petitioner's Submissions:

3.9.1 The Opening Regulated Rate Base (RRB) computed for FY 2016-17 in Table 152 of the Tariff Order dated 28.03.2018 is at variance with the closing RRB of FY 2015-16 as computed and approved in Table 169 of the previous Tariff Order dated 31.08.2017. Hence, there is an error apparent in computation of Opening RRB for FY 2016-17 which needs to be corrected.

Commission's Analysis

3.9.2 The Commission in its Tariff Order dated 31/08/2017 has computed the closing RRB for FY 2015-16 as Rs. 2,077.61 Cr. (table 169). Whereas, the opening RRB for FY 2016-17 (table 152) of the Tariff Order dated 28/03/2018 has been taken as Rs. 2,054.49 Cr. The computation has been reconciled and it is observed that the opening RRB for FY 2016-17 works out to be Rs. 2,077.61 Cr. The same has been rectified in the Tariff order dated 31.7.2019 and an impact of Rs. 2.67 Cr. shall be considered in subsequent Tariff Order.

3.10 Issue No. 10

Error in rate of carrying cost while computing the impact of APTEL Judgement and Review Order in Table 98:

Petitioner's Submissions:

3.10.1 The grievance is limited to the error in considering the rate of carrying cost as 10.25% for FY 2016-17 while computing Impact of APTEL Judgements and Review Order in Table 98 of the Tariff Order dated 28.03.2018.

Commission's Analysis

3.10.2 Due to an inadvertent typographical error, in the Table-98 of Tariff Order dated 28.03.2018, the carrying cost for the FY 2016-17 has been considered as 10.25%, whereas in Table-222 the correct rate of carrying cost for FY 2016-17 i.e. 11.17% is mentioned. Accordingly, the carrying cost rate of FY 2016-17 in Table-98 may also be read as 11.17% and the impact of the same may be considered in the subsequent Tariff Order.

3.11 Issue No. 11

Error in Revenue Billed for computation of AT&C Loss for FY 2016-17:

Petitioner's Submissions:

3.11.1 While issuing up the Revenue Billed for calculation of AT&C loss for FY 2016-17 at Table 107 of the Tariff Order dated 28.03.2018; there is an arithmetical error to the extent of the amount of monthly rebate of Rs.22.01 Crore.

Commission's Analysis

3.11.2 In table no. 107 of the Tariff Order dated 28/03/2018, the total revenue billed has been considered by adding monthly Rebate of Rs.22.01 Cr. It is observed from the notes to financial statements for FY 2016-17 that for category wise details of revenue billed and revenue collected (Billed and unbilled) during the year FY 2016-17, the monthly rebate has already been included in the revenue billed of the Petitioner. The same has been inadvertently added again. The error may be rectified accordingly as given table in the subsequent Tariff Order.

Particulars	Amount (Rs. Cr.)
Energy billed	6114.44
Collection Eff (Revised)	100.27%
Revenue Realised	6,131.23
Energy Input	7027.92
AT&C Targets	12.76%
Additional Return on Equity (%)	0.37%
Target AT&C loss level for ith year (Xi)	13.33%
Actual AT&C Loss level for ith year (Yi)	12.76%
Target AT&C loss level for (i-1) year (Xi-1)	14.50%
Additional return on equity due to over achievement in AT&C loss	0.49%
Equity Amount	485.67
Additional Return	2.37

3.12 Issue No. 12

Omission to allow actual expenses incurred on account of statutory levies while truing up for FY 2016-17

Petitioner's Submissions:

3.12.1 The O&M expenses were claimed on the basis of actuals since there was no normative target for FY 2016-17. Such actual expenses also included various

statutory levies and expense such as License Fees, SMS charges, Property Tax, Impact of revision in Bonus for Contractual employees, etc. However, in the Tariff Order dated 28.03.2018, the Commission has allowed O&M expenses on a normative basis, It is submitted that even if the O&M expenses were allowable on normative basis, the actual statutory levies and duties etc. ought to be allowed as has been done in the case of TPDDL.

Commission's Analysis

3.12.2 As submitted by the Petitioner in its Review petition, the Petitioner had claimed O&M expenses on the basis of actual since there was no normative target. The Commission has already clarified in its Tariff Order dated 28/03/2018 that the O&M expenses are to be allowed on a normative basis. The claim arising in the Review Petition was not sought in specific in the Tariff Petition (relating to Tariff Order dated August 2017).

3.12.3 However, keeping in view the submission of the Petitioner that revision of statutory duty has been allowed to the other Discom viz. TPDDL, the Petitioner's claim on Property Tax and SMS charges shall be considered as per the provision of extant Regulations in the subsequent tariff Order.

3.13 Issue No. 13

Error in allowing SVRS Pension amount as part of normative O&M costs for FY 2016-17:

Petitioner's Submissions:

3.13.1 In the Tariff Order dated 28.03.2018, the Commission allowed normative O&M Expenses for FY 2016-17 by applying escalation factor of 8% over approved expenses of FY 2015-16. While doing so, the amount of SVRS pension for FY 2015-16 i.e. Rs.0.9 Crore has been allowed for FY 2016-17 instead of actual amount incurred during FY 2016-17 i.e. Rs.1.5 Crore.

Commission's Analysis

3.13.2 The Petitioner had claimed O&M expenses on the basis of actual since there was no normative target. The Commission has already clarified in its Tariff Order dated 28/03/2018 that the O&M expenses are to be allowed on a normative basis. The claim arising in the Review Petition was not sought in specific in the Tariff Petition (relating to Tariff Order dated August 2017). As of now the Petitioner has claimed actual payment of Rs.1.5Crore towards SVRS Pension amount, therefore, the claim of the petitioner for difference of SVRS Pension amount of Rs.0.57 Crore shall be considered in the subsequent Tariff Order.

3.14 Issue No. 14

Error in disallowing cost of Power purchase on account of Anta, Auraiya & Dadri Gas Stations for FY 2016-17:

Petitioner's Submissions:

3.14.1 The Commission had in the Review Order dated 22.03.2018, permitted procurement of power from Anta, Auraiya and Dadri gas stations from FY 2017-

18. However, the reasons which hold good for future period i.e. from FY 2017-18 would hold equally good for FY 2016-17. Hence, the present Review claiming the power purchase cost from Anta, Auraiya and Dadri in True up for FY 2016-17.

Commission's Analysis

3.14.2 The Commission has already decided this matter in its Order dated 18/09/2018 on petition no. 45 of 2018, wherein the cost of Anta, Auraiya and Dadri Gas Based Stations has been allowed for FY 2016-17 also. Relevant extract of the same is as follows:

“4. In view of the aforesaid discussions and the fact that the instant petition is similar to Petition no. 34 of 2018, same relief is granted to the Petitioner and the cost of power purchase from FY 2012-13 till FY 2016-17 is allowed on the principle of Merit Order.”

3.14.3 The appropriate impact has been given in the Tariff Order dated 31.07.2019. Therefore, the issue does not survive.

3.15 Issue No. 15

Error in consideration of rebate on credits received in FY 2016-17:

Petitioner's Submissions:

3.15.1 The Commission has considered the normative rebate on total Power Purchase Cost including the credits of Rs.122 Crore received in FY 2016-17 (pertaining to FY 14-15) which were already considered while trueing up the Power Purchase cost for FY 2014-15 in the previous Tariff Order dated 31.08.2017. Hence, the rebate @2% on such credits is disallowed twice, one in FY 2014-15 and other in FY 2016-17.

Commission's Analysis

3.15.2 The facts have been reconciled with the Petitioner and it observed that there is no error in the computation of rebate on credits received in FY 2016-17.

4 The Petition is disposed of as per the directions and decisions contained in the paragraph 3 of this order, which would be given effect in the subsequent Tariff Order.

5 Ordered Accordingly.

Sd/-
(Justice S S Chauhan)
Chairperson