

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

No. F. 11(538)/DERC/2009-10

Petition No. 13 /2014

In the matter of: **Petition u/S 86 of Electricity Act, 2003 regarding compliance with order dated 06.10.2009 of ATE in appeal No. 36/2008 filed by BRPL.**

BSES Rajdhani Power Limited
Through its : **CEO**
BSES Bhawan, Nehru Place,
New Delhi- 110 019

Petition No. 14 /2014

In the matter of: **Petition u/S 86 of Electricity Act, 2003 regarding compliance with order dated 30.10.2009 of ATE in appeal No. 37/2008 filed by BYPL.**

BSES Yamuna Power Limited
Through its : **CEO**
Shakti Kiran Building, Karkardooma,
New Delhi- 110 092

Coram:

Sh. P. D. Sudhakar, Chairperson
Sh. J.P. Singh, Member
Sh. B.P. Singh, Member

ORDER

(Date of Order: 20.04.2015)

1. BRPL and BYPL had filed Petitions No.13 & 14 of 2014 for compliance of the orders of the Appellate Tribunal for Electricity in Appeals No. 36/2008 and 37/2008 in the matter of BRPL Vs. DERC and BYPL vs. DERC, respectively.
2. In Appeals No.36/2008 and 37/2008, the petitioners had raised, inter alia, the issue of Distribution loss and AT&C loss targets during MYT period, and on this issue the Appellate Tribunal for Electricity has directed the Commission to revisit, if it felt necessary, the distribution loss trajectory for the control period by considering the loss level at the beginning of the control period and not based on the loss level on the date of privatisation.

3. Subsequently, BRPL filed the aforesaid petition No.13/2014, which was disposed of on 17.07.2014, with the observation that the petitioner had already availed of the opportunity to present its case on various issues, which have already been addressed in the past tariff orders of the Commission and no further action is required separately in this petition by the Commission .

4. The aforesaid issue of Distribution loss and AT&C loss targets during MYT period was again agitated in Appeals No. 61 & 62 of 2012 before this Hon'ble Tribunal, which were decided vide judgment and order dated 28.11.2014 and on this issue, the Hon'ble Tribunal has directed the Commission to reconsider the matter within three months and pass a reasoned order. The relevant para of the judgment is being reproduced herein below:

"31. In view of submission of the Appellants, the Commission is directed to reconsider the matter within three months from date of issuance of the judgment and pass a reasoned order. The issue is decided accordingly."

5. As per the directions of the Hon'ble Tribunal, the issue of Distribution loss and AT&C loss targets during MYT period has again been considered by the Commission keeping in view the submissions made by the petitioner including the computation of its entitlements.

6. The Commission has observed that:

a). the target for reduction of AT&C losses were fixed in the MYT Regulations 2007. The relevant extracts from the MYT Regulations 2007 is as follows:

"4.8 The target AT&C loss levels to be achieved by the Distribution Licensees at the end of the Control Period shall be as follows:

(i) NDPL – AT&C Loss level shall be at 17 percent;

Provided that the year wise loss reduction trajectory for the Control Period shall be fixed for the Distribution Licensee in the Multi Year Tariff Order for 2007-08;

Provided that profits arising from achieving loss level better than specified in the loss reduction trajectory shall be equally shared between the Licensee and Contingency Reserve;

Provided that profits arising from achieving loss level better than 15% in any year shall be completely to the account of the Licensee;

Provided that the loss targets and year wise loss reduction trajectory for subsequent Control Periods shall be specified by the Commission before the start of each Control Period;

(ii) BRPL – AT&C Loss level shall be at 17 percent;

Provided that the year wise loss reduction trajectory for the Control Period shall be fixed for the Distribution Licensee in the Multi Year Tariff Order for 2007-08;

Provided that profits arising from achieving loss level better than specified in the loss reduction trajectory shall be equally shared between the Licensee and Contingency Reserve;

Provided that profits arising from achieving loss level better than 15% in any year shall be completely to the account of the Licensee;

Provided that the loss targets and year wise loss reduction trajectory for subsequent Control Periods shall be specified by the Commission before the start of each Control Period;

(iii) BYPL – AT&C Loss level shall be at 22 percent;

Provided that the year wise loss reduction trajectory for the Control Period shall be fixed for the Distribution Licensee in the Multi Year Tariff Order for 2007-08;"

b). The Appellant has not challenged the Statutory Regulations and therefore, they have attained legislative finality. Thus the target figures given above for the end of the control period have attained finality.

c). Fixation of year-wise AT&C loss targets was done in the MYT Order after following the due process of law and through consultation and public hearing of all the stakeholders. The basic principle followed was that there would be equal reduction year wise in targets from the beginning of the control period to the last year of the control period. Targets for the beginning and end years have already been fixed in MYT Regulations.

d). All the submissions of the Appellant including business plan had been considered before setting the targets for AT&C loss reduction during the control period and in fact, TPDDL was able to comfortably achieve all the prescribed targets, which can be observed from the table below. Actually, their performance in all the years of the control period was much better than the targets set by the Commission.

DISCOM		FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
BYPL	Target	34.77	30.52	26.26	22
	Achievement	29.8	24.02 *	24.32	21.95
BRPL	Target	26.69	23.46	20.23	17
	Achievement	27.17	20.59*	20.53	18.82
TPDDL	Target	22.03	20.35	18.67	17
	Achievement	18.56	16.74	15.16	13.1

**As claimed by the Discom, but not approved by the Commission*

7. In the case of BYPL, it was able to achieve the prescribed targets in three out of four years of the control period while in FY 2008-09, they claimed a better achievement, but this was not accepted because it could not be substantiated. (Presently true-up of FY 2008-09 is in progress as directed by APTEL).

8. In the case of BRPL, there was only marginal increase over the set targets in FY 2007-08, FY 2009-10 and FY 2010-11 for which they have been penalized as per the Regulations in force. Failure to achieve pre-set targets cannot be an excuse for re-fixing subsequent targets since regulatory certainty has already been assured through advance notification of targets in the MYT order. It is expected that the DISCOM will make all possible efforts to achieve the set targets and the very fact that two out of three DISCOMs, could achieve the set targets fixed on the same basic principle clearly indicates that these targets cannot be considered as unreasonable.

9. It is also stressed that distribution loss is a part of the AT&C loss targets and hence no separate targets are set for distribution loss.

10. In conclusion, the Commission while reviewing the issue of Distribution loss and AT&C loss targets during the first MYT period as directed by APTEL hereby decides that keeping in view the above observations, a revision of the Distribution loss and AT&C loss targets given in the MYT Order is not warranted.

11. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson