



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 511/2015

Petition No.: 14/2015

ORDER SHEET

21.12.2015

Before the Assam Electricity Regulatory Commission

ASEB Campus, Dwarandhar,
G. S. Road, Sixth Mile, Guwahati – 781 022
Petition No. 14/2015

Assam Power Generation Corporation Limited

----- Petitioner

In the matter of Review petition filed by Assam Power Generation Corporation Limited under Regulation 34 Part-VII of AERC (Conduct of Business) Regulations 2004 seeking review and / or modification of Tariff Order dated July 24, 2015 of the Hon'ble AERC for tariff of the FY 2015-16 and True-up of FY 2013-14.

CORAM

Shri D.Chakravarty,
Chairperson (i/c) & Member

ORDER

1. The Assam Power Generation Corporation Limited (hereinafter referred to as the 'Petitioner' or 'APGCL') had filed the petition (Petition No.9/2015) for Truing Up of FY 2013-14, APR of FY 2014-15 and approval of Revised ARR and tariff for FY 2015-16 on December 20, 2014 under Section 62 of the Electricity Act, 2003, and Regulation 5, 6, & 7 of the AERC Tariff Regulations, 2006. The Commission after taking the due process has issued order dated July 24, 2015, for true-up for FY 2013-14, Annual Performance Review for FY 2014-15, and revised ARR and Generation Tariff for FY 2015-16, making the new tariff effective from August 1, 2015.
2. APGCL has prayed for review of the Tariff Order dated July 24, 2015, of FY 2015-16 on the following issues:
 - A. Prayer for Review under Truing-up for FY 2013-14
 - i. Section 4.3.11 Administration and General (A&G) expenses: To approve the balance amount of Rs. 5.77 Crore of Electricity expenses as part of Administration and General Expenses for true up purpose for FY 2013-14.
 - ii. Section 4.3.19 Other Receipt: To exclude Rs. 19.00 Crore of Other Receipt considered as part of Income for true up purpose for FY 2013-14.

B. Prayer for Review under Tariff order for FY 2015-16

- i. Fixed Charges approved for the FY 2015-16: To allow the balance amount of Rs. 3.49 Crore left to be recovered out of Trued up values of FY 2012-13 & FY 2011-12 either by way of book adjustment with APDCL or by way of inclusion in the fixed charges approved for the FY 2015-16.

C. Prayer for Inclusion of amount approved vide AERC's Review Order dated 09.04.2015: To allow the amount of Rs. 43.99 Crore of Prior Period Items approved in Truing Up for FY 2012-13, either by way of book adjustment with APDCL or inclusion in the fixed charges approved for the FY 2015-16.

3. The AERC (Conduct of Business) Regulations, 2004 specifies as under with respect to Review of the decisions, directions and orders of the commission:

"34.Review of the decisions, directions and orders

- i. ***Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/ order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.***
- ii. *An application for review shall be filed in the same manner as a petition under Chapter II of these regulations.*
- iii. *When it appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.*
- iv. *The application for review shall be accompanied by such fee as may be specified by Commission."***(emphasis added)**

4. The Commission noted that the Review Petition was filed on September 19, 2015, which is within the stipulated time period of 60 days from the date of issue of the Order dated July 24, 2015.
5. The Commission, vide its notice dated December 10, 2015, scheduled a hearing on the Review Petition on December 18, 2015.
6. The Commission conducted the hearing on the scheduled date at the Office of the Commission. Shri. S. N. Kalita, CGM (F&A), Smt. Pinky Deb, AO, APGCL and Smt. Aklantika Saikia, DM, APGCL, appeared on behalf of the Petitioner. The Chairperson initiated the hearing on the Review Petition and directed the Petitioner to submit their case.
7. Shri S.N. Kalita, CGM (F&A), APGCL, briefly re-iterated the salient points of the review petition submitted and requested the Commission to approve the various prayers made in the review petition. The key prayers were:
 - i. Approve the amount of Rs. 5.77 crores of electricity expenses under A&G expenses on account of the documents submitted as proof of the expense and the justification provided.
 - ii. To exclude Rs. 19.00 crores of other receipt considered as part of Other Income on account of the clarification and the justification provided.

- iii. Allow recovery of Rs. 3.49 crores, which was left to be recovered out of the trued up values of FY 2011-12 and FY 2012-13.
- iv. Allow recovery of Rs.43.99 crores of prior period items approved in truing up of FY 2012-13.

8. The Commission heard the petitioner and recorded the submissions made. The submissions made by the petitioner along with the Commission's analysis and decisions arrived at are discussed issue-wise in the following paragraphs:

A. Prayer for Review under Truing-up for FY 2013-14

A.1. Section 4.3.11 Administration and General (A&G) expenses

APGCL's Submission

In the review petition, APGCL submitted that for FY 2013-14, no centralized energy bill was issued by APDCL and an amount of Rs 5.78 Crore was provided against electricity bill of different offices of APGCL on the basis of estimation provided by APDCL.

APGCL further submitted that the expenditure of Rs. 5.78 Crore was already adjusted in the books of accounts of APGCL and Rs. 5.77 Crore (as against Rs. 5.78 Crore of earlier estimate given by APDCL) was adjusted in the books of accounts of APDCL in the form of book adjustment during the FY 2013-14. APGCL also stated that the adjustment made in the books of accounts of APDCL is made against "Liabilities for purchase of power-APGCL" and the same forms a part of the "Income from sale of power" of Rs. 2642.16 Crore allowed by the Hon'ble Commission in the Tariff Order of APDCL dated July 24, 2015.

Regarding the proof of payment, APGCL submitted that it has asked APDCL for issuance of centralized energy bill and certification of payment for the FY 2013-14 and in reply to APGCL's requirement, APDCL has provided the Centralized Energy bill cum certification of book adjustment made in APDCL's books of account as a proof of electricity bill paid for the FY 2013-14. APGCL has attached a copy of the same certificate provided by APDCL against the proof of electricity bill paid for the FY 2013-14.

Accordingly, APGCL prayed to the Hon'ble AERC to review the Tariff Order for FY 2015-16 and approve the balance amount of Rs 5.77 Crore of Electricity expenses as part of Administration and General Expenses for True-up purpose for FY 2013-14.

Commission's View

APGCL had claimed an additional amount of Rs 5.78 Crore under A&G expenses for FY 2013-14, under the provision of electricity bill of different offices of APGCL paid to APDCL. However, APGCL could not provide the documentary evidence of the payment being made to APDCL for electricity bills as asked by the Commission during the proceedings of tariff petition for FY 2015-16. APGCL has now submitted an additional document as a proof of payment made against electricity bill.

After analysis of the new documents submitted, the Commission has observed that the documentary proof of bill payment in form of certificate of book adjustment made in APDCL's books of account has now been provided by APGCL. Also, the documentary evidence shows that the same amount has been considered as a part of the "Income from sale of power" of Rs. 2642.16 Crore allowed by the Hon'ble Commission in the Tariff Order of APDCL dated July 24, 2015.

Considering the new evidence and justification presented, **the Commission approves an additional amount of Rs. 5.77 crores under A&G expenses for FY 2013-14 in this review order. The Commission allows APGCL to claim the additional amount in the next Tariff petition.**

A.2. Section 4.3.19 Other Receipt for True up of FY 2013-14

APGCL's Submission

In the review petition, APGCL submitted that in the Statement of Accounts for FY 2013-14, Rs. 19.00 Crore is booked as Other Receipt under the Income section of the Profit & Loss A/C. However, APGCL has not claimed this amount as part of Income in their petition as the said receipt is only a rectification entry followed by comments of C&AG on the Annual Accounts of FY 2012-13.

APGCL further submitted that the Govt. of Assam (GoA) had accorded its approval towards the payment of Rs. 19.00 Crore for final settlement of pending court cases with M/S BHPCL in pursuance of the Hon'ble' Supreme Court order Dtd. November 29, 2012. As no fund was available in the budget allocated for the FY 2012-13 for this payment, a supplementary demand proposal was moved for concurrence of Finance Department and APGCL was requested to take necessary action for making the payment of Rs. 19.00 Cr from APGCL's own source on or before December 13, 2012. Accordingly the payment was made to M/S BHPCL on December 13, 2012 from own source of APGCL which was later reimbursed by GoA vide cheque number 110839 dated March 21, 2013. APGCL further submitted that the said amount was already adjusted during the True up of 2012-13 and said receipt in the accounts of FY 2013-14 is only a rectification entry followed by comments of C&AG on the Annual Accounts of FY 2012-13.

Accordingly, APGCL has prayed to AERC to review the Tariff Order for FY 2015-16 and exclude Rs19.00 Crore of Other Receipt as part of Income for trueing up of FY 2013-14.

Commission's View

In the Statement of Accounts for FY 2013-14, Rs. 19.00 Crore was booked as Other Receipt under the Income section of the Profit & Loss A/C, as a Revenue Grant, received by APGCL. However, APGCL did not claim this amount as part of Income in their petition. Also, no explanation was provided by APGCL in the petition, on why this income shall not be considered while arriving at net income of FY 2013-14 and accordingly the same amount was considered as other income by the Commission. APGCL has submitted the detailed explanation stating that the Other Income of Rs. 19 crores booked in the annual accounts of FY 2013-14, was actually received in FY 2012-13 and was already considered in Trueing Up of FY 2012-13 and the entry in year FY 2013-14 is just an accounting ratification entry for shifting of money from head of capital grant to revenue grant.

Since the explanation provided by APGCL and supporting document submitted clearly shows that no actual grant to the tune of Rs. 19 crore was received by APGCL and entry in audited accounts was just an accounting ratification entry, the said amount is excluded from the income of APGCL for 2013-14.

Accordingly, the Commission allows an additional amount of Rs. 19.00 crores for FY 2013-14 in this review order. The Commission allows APGCL to claim the additional amount in the next Tariff petition.

B. Prayer for Review under Tariff order for FY 2014-15

B.1 Fixed Charges approved for the FY 2014-15

APGCL's Submission

APGCL submitted that it was allowed to recover the True-up gap of FY 2011-12 and FY 2012-13 in the ARR of FY 2014-15 as per the order dated November 24, 2014, the details of which are presented in the table below.

	Particulars	Rs. in Crore
1	Fixed Charges for 2014-15	211.66
2	Add: True up for FY 12-13	-16.79
3	Add: Impact of revised true up for FY 11-12	27.26
4	Total Fixed Charges allowed for 2014-15	222.13
5	Monthly Fixed Charges	18.51

APGCL further submitted that since the tariff order was issued on November 24, 2014, the fixed charges along with energy charges were billed/to be billed to APDCL from December 01, 2014, onwards till July 31, 2015, after which Tariff Order for the FY 2015-16 issued on July 24, 2015 is applicable. APGCL thus explained that the fixed charges already approved for the FY 2014-15 were recovered/ is to be recovered for 8 months only out of 12 equal monthly installments and hence an amount of Rs. 3.49 Crore remains to be recovered on August 01, 2015, out of the Trued up values of FY 2012-13 & FY 2011-12 approved with ARR of FY 2014-15 as per the calculation shown in the table below.

Statement of Fixed charges Recovered/ to be recovered till 31st July'15 (Rs. in Cr)

Month	Fixed Charges	True Up 12-13	Revised True-up 11-12	Total Fixed charges
December'14	17.64	-1.4	2.27	18.51
January'15	17.64	-1.4	2.27	18.51
February'15	17.64	-1.4	2.27	18.51
March'15	17.64	-1.4	2.27	18.51
April'15	17.64	-1.4	2.27	18.51
May'15	17.64	-1.4	2.27	18.51
June'15	17.64	-1.4	2.27	18.51
July'15	17.64	-1.4	2.27	18.51
Total	141.11	-11.19	18.17	148.09
Less: Amount approved in True up 12-13 & 11-12		-16.79	27.26	
Shortfall (-)/Surplus(+)		5.6	-9.09	-3.49

Accordingly APGCL has prayed to the Commission to review the Tariff Order for FY 2015-16 and allow the balance amount of Rs. 3.49 Crore left to be recovered out of Trued up values of FY 2012-13 & FY 2011-12 either by way of book adjustment with APDCL or by way of inclusion in the fixed charges approved for the FY 2015-16.

Commission's View

The said claim of APGCL is with respect to under recovery of ARR of FY 2014-15 which shall be trued-up in next tariff order. In the next Tariff petition, APGCL is expected to submit the True Up petition of FY 2014-15, in which APGCL shall submit the gap between actual expense and revenue for FY 2014-15, to

be claimed under ARR of 2016-17. As such the differential amount claimed by APGCL in this Review petition shall be considered while truing-up for 2014-15.

C. Prayer for Inclusion of amount approved vide AERC's Review Order dated April 09, 2015

C.1 Truing Up for FY 2012-13

APGCL's Submission

APGCL submitted that In the Review Order dated April 09, 2015, for the True Up for FY 2012-13, the Hon'ble Commission allowed APGCL to claim the differential amount of Rs. 43.99 Crore in the next Tariff Petition. APGCL further submitted that, since the Review Order was issued on 09th April 2015, by which time the Revised Tariff petition for FY 2015-16 was already filed before Hon'ble Commission on April 09, 2015, APGCL was not in a position to claim the differential amount of Rs. 43.99 Crore in the Tariff petition for FY 2015-16. Accordingly, APGCL has prayed to the Hon'ble Commission to allow the amount of Rs. 43.99 Crore of Prior Period Items approved in Truing Up for FY 2012-13, either by way of book adjustment with APDCL or inclusion in the fixed charges approved for the FY 2015-16.

Commission's View

At the time of issuing of review order dated April 09, 2015, the next tariff petition from APGCL which was due was the MYT petition for the new control period as the petition for tariff of FY 2015-16 was already filed. Considering the fact, the next Tariff petition stands as the MYT Tariff petition of FY 2016-17 to FY 2018-19, the Commission allows APGCL that it can claim this amount in the next MYT petition.

With the above observations and decisions on the issues submitted for review, the review petition filed by APGCL stands disposed off.

Sd/-
(D. Chakravarty)
Chairperson(i/c)&Member
AERC