

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

**Case No. 08 of 2018**

M/s Inland Power Limited (IPL) ..... Petitioner

Versus

Jharkhand Bijli Vitran Nigam Limited (JBVNL) ..... Respondent

**CORAM: HON'BLE MR. (DR) ARBIND PRASAD, CHAIRPERSON  
HON'BLE MR. R.N. SINGH, MEMBER (ENGINEERING)**

For the Petitioner : Mr. Nitin Pasari, Advocate,  
Mr. M.L.Khetan, Representative

For the Respondent (JBVNL): Mr. Navin Kumar, Advocate

**ORDER**

**Date - 13<sup>th</sup> May, 2019**

1. This review petition has been filed by Inland Power Limited (hereinafter referred to as 'IPL') under Section 94(1) (f) of the Electricity Act, 2003 read with Regulation 41.1 of the JSERC (Conduct of Business) Regulations 2016 against the order dated 19.03.2018 passed by the Jharkhand State Electricity Regulatory Commission (hereinafter referred to as 'JSERC' or the 'Commission') in Case no. 16 of 2017 relating to True-up of ARR for FY 2015-16 for Inland Power Limited.

2. The tariff order dated 19.03.2018 on true-up of ARR for FY 2015-16 was issued after following the due procedure of public consultation i.e. inviting suggestion/comments/objection from the stakeholders/general public on the petition for true-up and also by holding public hearing to hear the stakeholders/general public in person for giving any suggestion/comments/objection on the petition for true-up of IPL. Any review of the said order dated 19.03.2018 will affect the stakeholders / general public directly or indirectly, as such, Jharkhand Bijli Vitran Nigam Limited (JBVNL) was impleaded as party respondent in this case vide order dated 08.05.2018.

Learned Counsel for the Petitioner submitted following grounds/points of review:-

## **I. PLANT AVAILABILITY FOR FY 2015-16**

### **Submission of the Petitioner**

- a) Learned Counsel for the petitioner submitted that this Commission vide its order dated 27<sup>th</sup> May, 2014 provisionally approved the norms for Normative Annual Plant Availability Factor (NAPAF) of 75 % for FY 2015-16.
- b) Learned Counsel of the petitioner submitted that the petitioner in its true-up petition prayed that actual PAF of 91.42% for FY 2015-16 may be allowed but the Commission revised the NAPAF of unit 1 from 75% to 85% for FY 2015-16.
- c) Learned Counsel of the petitioner submitted that the revision of NAPAF to 85% for FY 2015-16 resulted in drastic reduction in the rightful incentive receivable to IPL and hence the petitioner prayed to review its order of changing NAPAF to 85% for FY 2015-16.

### **Submission of the Respondent**

- a) Learned Counsel for the respondent submitted that as per JSERC (Terms and Conditions of Determination of Generation Tariff) Regulations, 2010, NAPAF of all thermal generating stations shall be 85%. He further submitted that this Commission in its MYT order dated 27<sup>th</sup> May, 2014 quoted that “the provisionally approved norms for NAPAF may be reviewed at the time of True-up of FY 2014-15 and FY 2015-16 after considering the actual performance of Unit- 1 of the generation station”.
- b) Learned Counsel for the respondent submitted that the revision of NAPAF of IPL to 85% for FY 2015-16 is in accordance with the JSERC (Terms and Conditions of Determination of Generation Tariff) Regulations, 2010 and as per the MYT order dated 27<sup>th</sup> May, 2014. Ld Counsel further prayed not to allow the request of the petitioner to revise the NAPAF to 75%.

## **II. AUXILIARY CONSUMPTION FOR FY 2015-16**

### **Submission of the Petitioner**

- a) Learned Counsel for the petitioner submitted that this Commission vide its order dated 27<sup>th</sup> May, 2014 provisionally approved Auxiliary consumption norms at 10.5 % for FY 2015-16
- b) Learned Counsel for the petitioner submitted that the petitioner in its True-up petition prayed that actual auxiliary consumption in FY 2015-16

of 11.26 % may be allowed but the Commission approved the auxiliary Consumption at 10% for FY 2015-16 as per the DPR submitted by the petitioner.

- c) Learned Counsel for the petitioner submitted that the revision of normative auxiliary consumption to 10% resulted in loss of IPL's rightful claim under energy charges and hence the petitioner prayed to review its order of changing auxiliary consumption to 10% for FY 2015-16 and allow it on actuals.

#### **Submission of the Respondent**

- a) Learned Counsel for the respondent submitted that the revision of Auxiliary consumption of the petitioner for FY 15-16 is based on the Detailed Project Report (DPR) of the plant submitted by the petitioner.
- b) Learned Counsel submitted that as per the DPR, the auxiliary consumption of the plant is 10%. He further submitted that the actual auxiliary consumption submitted by the petitioner is too high as compared to auxiliary consumption allowed by this Commission for most of the thermal plants of Jharkhand State.
- c) Learned Counsel for the respondent further requested the Commission to keep the auxiliary Consumption for FY 2015-16 at 10% only and not to allow the request of the petitioner to allow actual auxiliary consumption of 11.26% for FY 2015-16.

### **III.STATION HEAT RATE FOR (SHR) FY 2015-16**

#### **Submission of the Petitioner**

- a) Learned Counsel for the petitioner submitted that this Commission vide its order dated 27<sup>th</sup> May, 2014 provisionally approved gross station heat Rate of 2902 kcal/kWh for FY 2015-16.
- b) Learned Counsel for the petitioner submitted that the petitioner in its true-up petition prayed that actual SHR of 2931 kcal/kWh may be allowed but the Commission approved the SHR at 2765kcal/kWh as per the DPR submitted by the petitioner.
- c) Learned Counsel for the petitioner submitted that the revision of normative SHR to 2765 kcal/kWh resulted in loss of the petitioner's claim under energy charges and hence prayed to review its order of changing SHR to 2765 kcal/kWh for FY 2015-16 and to allow it on actual.

### **Submission of the Respondent**

- a) Learned Counsel for the Respondent submitted that the petitioner has requested this Commission to revise the approved station heat rate of 2765kcal/kWh and allow the actual SHR of 2931 kcal/kWh for FY 2015-16. In this regard the Ld. Counsel further submitted that the fuel mix approved by the Commission was 70% Coal at GCV (Gross Calorific Value) of 3200kcal/kg and 30% Dolochar at GCV of 1500kcal/kg but the petitioner has revised the fuel mix at 51.9%, 21.1% and 26.9% for Coal, Dolochar and Coal reject respectively which resulted into the increase in SHR with very high per unit fuel cost of the plant.
- b) Learned Counsel for the respondent submitted that as per JSERC (Terms and Conditions for Determination of Generation Tariff), Regulations, 2010, gross station heat rate has been categorized under the “Controllable Factors” and hence any financial loss on account of underperformance of gross SHR cannot be recovered through tariff.
- c) Learned Counsel for the respondent prayed to keep the SHR at 2765 kcal/kWh which is as per the detailed project report (DPR) submitted by the petitioner and not to allow the request of the petitioner to allow the actual SHR for FY 2015-16.

### **IV.O&M EXPENSES**

#### **Submission of the Petitioner**

- a) Learned Counsel for the petitioner submitted that this Commission vide its order dated 27<sup>th</sup> May, 2014 provisionally approved the normative O&M expenses of Rs. 16.01 crore for FY 2015-16.
- b) Learned Counsel for the petitioner submitted that the petitioner in its True-up petition prayed that actual O & M expenses in FY 2015-16 of Rs. 24.96 crore may be allowed but the Commission approved the O&M expenses at normative of Rs. 16.01 crore which resulted in less recovery of the petitioner. Hence, the petitioner prayed to review its order and approve the O&M expenses on actual for Rs. 24.96 crore.

#### **Submission of the Respondent**

- a) Learned counsel for the respondent submitted that the petitioner has submitted an increase in the ash handling & disposal expenses for increased quantity of ash produced. Actual reason behind this increase in ash handling and disposal expenses is the change in fuel mix and high usage of Coal rejects and low GCV fuel, resulting into increase in O&M expenses of the plant.

- b) Learned Counsel for the respondent further submitted that the petitioner has a new plant and the O & M cost is significantly higher than the other power plants having similar age and hence prayed to keep the O&M cost at Rs. 16.01 crore for FY 2015-16 and not to allow the request of the petitioner to allow the actual O&M cost.

## **V.SECONDARY FUEL CONSUMPTION**

### **Submission of the Petitioner**

- a) Learned Counsel for the petitioner submitted that this Commission vide its order dated 27<sup>th</sup> May, 2014 provisionally approved the Specific oil consumption of 1ml/kWh for FY 2015-16
- b) Learned Counsel for the petitioner submitted that the petitioner in its true-up petition prayed that actual Secondary fuel oil consumption in FY 2015-16 of 0.86 ml/kWh with sharing of gains as per regulations may be allowed but the Commission approved specific oil consumption of 0.84 ml/kWh for FY 2015-16 without any sharing of gains which was as per auditor certificate of month-wise secondary fuel purchased for the FY 2015-16
- c) Learned Counsel for the petitioner submitted that the approval of less than actual secondary fuel oil consumption at 0.84 ml/kWh and no sharing of gains resulted in loss of petitioner's rightful claim. Hence, the petitioner prayed for review its order for approving secondary fuel oil consumption of 0.84 ml/kWh for FY 2015-16 and further sharing of gains may be allowed as per regulation.

### **Submission of the respondent**

- a) Learned Counsel for the respondent submitted that this Commission has already calculated the actual specific fuel consumption of 0.84ml/kWh from the weighted average landed price of secondary fuel from the details of month-wise secondary fuel purchased for the FY 2015-16.
- b) Learned Counsel for the respondent submitted that the submission of the petitioner that this Commission has not provided any rationale or justification for approving the secondary fuel oil consumption for FY 2015-16 at 0.84ml/kWh does not holds true and Ld. Counsel further requested the Commission to keep the secondary fuel oil consumption at 0.84 ml/kWh for FY 2015-16 and not to allow the request of the petitioner to allow the actual secondary fuel oil consumption of 0.86ml/kWh.

## **VI. PENALTY FOR NON-COMPLIANCE OF DIRECTIVES**

### **Submission of the Petitioner**

- a) Learned Counsel for the petitioner submitted that this Commission has imposed a penalty of an ad-hoc amount of 5% of IPL's Annual Revenue Requirement (ARR) of FY 2015-16 amounting to Rs. 9.17 crore.
- b) Learned Counsel for the respondent submitted that according to this Commission, penalty has been levied for non-compliance of techno-commercial study from an independent consultant to ascertain the segregation of common costs to the units.
- c) Learned Counsel for the respondent submitted that on direction of this Commission, the petitioner has commissioned a techno-commercial study from an independent consultant and submitted to the Commission via email dated 5<sup>th</sup> April, 2018.
- d) Learned Counsel for the petitioner further submitted that imposition of ad-hoc penalty of 5% of ARR resulted in loss of the petitioner's rightful claim of costs and hence, the petitioner requested the Commission to review its order of ad-hoc penalty of 5% of ARR for non-compliance of directives.

### **C O N C L U S I O N**

3. Heard Learned Counsel for the petitioner as well as Learned Counsel for the respondents in detail and perused the records of the case.

4. For the points/grounds of review mentioned at Sl.No.(I) to (V), the Learned Counsel for the respondent had suitably replied to the each issues raised by the petitioner. Further, in the original order dated 19.03.2018 also, the issues raised by the petitioner has adequately been discussed before passing the order. We are therefore not inclined to review the order on these points.

5. For the point/ground for review mentioned at Sl. No. (VI), we are of the view, that the penalty of 5% of ARR of the petitioner for non compliance of directives in order dated 19.03.2018 relating to True-up of ARR cannot be reviewed as a reasoned and speaking order has been issued in this regard in the said order and we find no ground to change it.

6. Further, it is observed that the petitioner had taken the directives of the Commission casually and did not submit the data regarding portion of assets that are already capitalised and are common to the proposed 2<sup>nd</sup> generating unit of 63 MW. After imposition of penalty of 5% ARR of FY 2015-16, for non-

compliance of directives, the petitioner submitted in its tariff petition for true-up for FY 2016-17 and FY 2017-18, an amount of Rs. 8.57 Crore attributable to Unit II, capitalised already. This common expense, attributable to Unit II was not to be recovered through the tariff paid by JBVNL as unit II has not come into operation. Hence, we are of the view that in not complying with the directives, the petitioner was keeping this excess capitalisation undisclosed.

7. In view of the above observation and findings, this review petition is disposed off accordingly.

Sd/-  
(R.N. Singh)  
Member (Engg)

Sd/-  
(Dr. Arbind Prasad)  
Chairperson