

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

Case No. 24 of 2018

Jharkhand Urja Utpadan Nigam Limited (JUUNL) Petitioner

Versus

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

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

For the Petitioner : Mr. Amitabh, Advocate,

For the Respondent : Mr. Amit Sinha, Advocate

ORDER

Date - 8th March, 2019

1. This review petition has been filed by Jharkhand Urja Utpadan Nigam Limited (hereinafter referred to as '**JUUNL**') 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 25.09.2018 (hereinafter referred to as '**Impugned order**') passed by the Jharkhand State Electricity Regulatory Commission (hereinafter referred to as '**JSERC**' or the '**Commission**') in Case (T) no. 01 of 2018 relating to True-up for FY 2013-14 (6th January, 2014 to 31st March, 2014), FY 2014-15 and FY 2015-16 and Business Plan, MYT Tariff petition for control period FY 2016-17 to FY 2020-21.

2. Learned Counsel for the Petitioner submitted that the Review Petition has been filed within the limitation period prescribed under the relevant Regulation 41.4 of the Jharkhand State Electricity Regulatory Commission (Conduct of Business) Regulations, 2016 and is well within the review jurisdiction of the Commission as provided under Section 94 (1) (f) of Electricity Act 2003, and the JSERC Conduct of Business Regulation, 2016.

3. Heard Learned Counsel for the Petitioner as well as Learned Counsel for the Respondent. Learned Counsel for the Petitioner submitted following issues of review :-

(i) Computation and payment of Capacity charges and Energy charges for Hydro generating stations

Submission of the Petitioner

- (a) Learned Counsel for the Petitioner submitted that the Commission has considered the design energy as 159.43 MUs and has not moderated it based on the Regulation 9.13 (ii) of JSERC Generation Tariff Regulations, 2010.
- (b) Learned Counsel for the Petitioner submitted that following figures for total gross generation in the revised submission of the review Petition:

Year	Total Gross Generation (MU)
FY 2011-12	270.07
FY 2012-13	141.97
FY 2013-14	109.86
FY 2014-15	33.71
FY 2015-16	51.29

- (c) Learned Counsel for the Petitioner submitted that the actual gross generation in the FY 2011-12 was above the approved design energy so the design energy for FY 2013-14 (company period) should be same as computed by the Commission. However, for the subsequent years i.e. FY 2014-15 and FY 2015-16 due to low generation in FY 2012-13 and FY 2013-14, that is less than design energy (DE) which is 159.43 MU, the Design Energy needs to be moderated in line with Regulation 9.13(ii).
- (d) Learned Counsel for the Petitioner submitted that for FY 2014-15, the value of A1 should be 141.97 MU and for FY 2015-16 the value of A1 should be 109.86. Subsequently, based on the regulation 9.12 and 9.13(ii) the moderated design energy and energy charge rate shall be as shown in table below:

Particulars	Unit	FY 2014-15	FY 2015-16
AFC	Rs. Cr	24.70	21.13
50% of AFC	Rs. Cr	12.35	10.57
Design Energy	MUs	159.43	159.43
A1	MUs	141.97	109.83
A2	MUs	109.83	33.71
Moderated DE (subject to minimum of A1 and maximum of DE)	MUs	141.97	109.83
Auxiliary consumption	%	0.70%	0.70%
ECR	Rs./ kWh	0.876	0.968

- (e) Learned Counsel for the Petitioner submitted that as the value of ECR is more than Rs. 0.80/ kWh, therefore in line with Regulation 9.14 of the JSERC Generation Tariff regulation, the ECR has been capped at Rs. 0.80/ kWh.

- (f) Learned Counsel for the petitioner based on above, submitted the revised submission for the concerned period as follows :

Particulars	Units	6 th Jan'14 to 31 st Mar''14	FY 2014-15	FY 2015-16
Energy Shortfall	MUs	0.00	17.343	49.222
ECR	Rs./kWh	0.796	0.80	0.80
Schedule Energy Ex-bus for the year	MUs	1.97	33.47	50.93
Energy charge for shortfall energy units	Rs. Cr	-	1.52	4.77
Energy charge for after shortfall energy units	Rs. Cr	0.16	1.29	0.14
Energy Charge	Rs. Cr	0.16	2.81	4.90
Capacity Charge	Rs. Cr	3.91	13.43	10.57
ARR	Rs. Cr	4.07	16.24	15.47

Learned Counsel for the Petitioner requested the Commission to revise the true-up as follows:

Particular	06 th Jan'14 to 31 st Mar'14		FY 2014-15		FY 2015-16	
	Approved in True-up	Revised Submission	Approved in True-up	Revised Submission	Approved in True-up	Revised Submission
ARR (INR Cr.)	4.07	4.07	16.04	16.24	13.96	15.47

Commission's observation and findings

- a) The JSERC Generation Tariff Regulations, 2010 specifies the following:

"9.13(ii) in case the energy shortfall occurs after ten years from the Date of Commercial Operation of a generating station, the following shall apply. Suppose the specified annual Design Energy for the station is DE MWh, and the actual energy generated during the concerned (first) and the following (second) financial year is A1 and A2 MWh respectively, A1 being less than DE. Then, the Design Energy to be considered in the formula as specified in clause of these Regulation for calculating the ECR for the third financial year shall be moderated as $(A1 + A2 - DE)$ MWh, subject to a maximum of DE MWh and a minimum of A1 MWh;."

Based on the submission of the Petitioner, the Commission has undertaken the moderation as given below

Year	Total Gross Generation (MU)	Formula as per Reg. 9.13 (ii) $(A1 + A2 - DE)$ MU	Also, as per Reg 9.13 9(ii), moderated MUs to be Minimum of A1 and Max. of DE
FY2011-12	270.07		
FY2012-13	141.97		
FY2013-14	109.86	$(270.07+141.97-159.43) = 252.61$	159.43
FY2014-15	33.71	$(141.97+109.86-159.43) = 92.40$	141.97
FY2015-16	51.29	$(109.86 + 33.71 - 159.43) = - 15.86$	109.86

- b) Based on the above moderation of the MUs, the revised ECR calculated is as given below:

Particulars	Unit	FY 2013-14	FY 2014-15	FY 2015-16
AFC	Rs. Cr	5.87	24.70	21.13
50% of AFC	Rs. Cr	2.93	12.35	10.57
Moderated DE (subject to minimum of A1 and maximum of DE)	MUs	159.43	141.97	109.86
Auxiliary consumption	%	0.70%	0.70%	0.70%
ECR	Rs./ kWh	0.796	0.876	0.968

- c) The JSERC Generation Tariff Regulations, 2010 further specifies the following

"9.14 In case the Energy Charge Rate (ECR) for a Hydro generating station, as computed in clause 9.12 of these Regulations, exceeds eighty paise per kWh, and the actual saleable energy in a Year exceeds $\{DE \times (100 - AUX) \times (100 - FEHS) / 10000\}$ MWh, the Energy charge for the energy in excess of the above shall be billed at eighty paise per kWh only.

Provided that in a Year following a Year in which total energy generated was less than the Design Energy for reasons beyond the control of the Generating Company, the Energy Charge Rate shall be reduced to eighty paise per kWh after the energy charge shortfall of the previous Year has been made up."

Based on above, the revised ARR (Revised Table 22) is as given below

Particulars	Units	6 th Jan'14 to 31 st Mar'14	FY 2014-15	FY 2015-16
ECR for shortfall MUs	Rs./kWh	0.796	0.876	0.968
ECR for MUs after shortfall	Rs./kWh	0.796	0.800	0.800
Shortfall units	MUs	0.00	17.46	49.57
Schedule Energy Ex-bus for the year	MUs	1.97	33.47	50.93
Energy Charge for shortfall units	Rs. Cr	-	1.52	4.77
Energy Charge for scheduled energy after adjusting for shortfall	Rs. Cr	0.16	1.29	0.14
Total Energy Charge	Rs. Cr	0.16	2.81	4.90
Capacity Charge	Rs. Cr	3.91	13.43	10.57
ARR	Rs. Cr	4.07	16.24	15.47

Revised table for Gap/ Surplus

Particulars	Units	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Annual Revenue Requirement (ARR)	Rs. Cr	4.07	16.24	15.47	-	-
Total Amount Billed by JUUNL	Rs. Cr	3.51	19.86	20.35	-	-
Gap/ (Surplus) for the year	Rs. Cr	0.56	-3.62	-4.88	-	-
Opening Gap/ (Surplus)	Rs. Cr	0.00	0.58	-3.22	-8.94	-10.19
Closing Gap/ (Surplus)	Rs. Cr	0.56	-3.04	-8.10	-8.94	-10.19
Rate of Interest	Rs. Cr	14.45%	14.75%	14.75%	14.05%	13.85%
Carrying cost	Rs. Cr	0.02	-0.18	-0.84	-1.26	-1.06
Closing Gap/ (Surplus) including Carrying cost	Rs. Cr	0.58	-3.22	-8.94	-10.19	-11.25

ii) Review of few inadvertent errors in the tariff order

Submission of the Petitioner

1. Learned Counsel for the Petitioner submitted that under Clause 7.22, the sum of the approved components of projected total O & M expense for FY 2016-17 in table 40 will be 17.38 in place of 17.27.
2. Learned Counsel for the Petitioner submitted that under Clause 7.52, the calculation of Annual fixed charges approved by the Commission will be 24.90 in place of 24.78.
3. Learned Counsel for the Petitioner submitted that in page no. 2, Table of contents, Clause A3, first heading of the chapter will be “Overview of the Hydel Power Plant” in place of “Overview of the Thermal Stations”.
4. Learned Counsel for the Petitioner submitted that in page No. 15, Clause A3 in first heading, above sub-clause 3.1: it will be “Overview of the Hydel Power Plant” in place of “Overview of the Thermal Stations”.
5. Learned Counsel for the Petitioner submitted that in page no. 15, Clause A3 (3.2), Table 4 :SUMMARY OF THE TRUE-UP PETITION SUBMITTED BY THE PETITIONER, for FY 2014-15, cumulative Gap/Surplus Opening Revenue Gap = will be read as Rs. 2.06 Cr in place of Rs. 2.07 Cr.
6. Learned Counsel for the Petitioner submitted that in page no. 41, Clause A6 (6.31) in 3rd line it will be read as “plant may be available for more than 75%” in place of “petitioner may be available for more than 75%”

Commission’s observation and findings

- 1) Table 40 under Clause 7.22 – typographical error is in A & G expenses

Revised Table 40: O & M expenses approved by the Commission for FY 2016-17

Particulars	Unit	Approved in order dated Sep’18	Corrected in Review order
Employee expenses	Rs. Cr	9.66	9.66
R&M expenses	Rs. Cr	5.60	5.60
A&G expenses	Rs. Cr	1.60	1.49
Terminal benefits	Rs. Cr	0.52	0.52
Total O&M expense	Rs. Cr	17.27	17.27

- 2) Table 52 under Clause 7.52 is correct and Petitioner’s submission is wrong.
- 3) Table of contents, Clause A3, first heading of the chapter to be read as “Overview of the Hydel Power Plant”
- 4) First heading above sub-clause 3.1 to be read as "Overview of the Hydel Power Plant"
- 5) Page No. 15, Clause A3 (3.2), Table 4 : SUMMARY OF THE TRUEUP PETITION SUBMITTED BY THE PETITIONER – For FY 2014-15,

- opening revenue gap as submitted by Petitioner to be read as Rs. 2.06 Cr in place of Rs. 2.07 Cr
- 6) Third Line in Clause 6.31 (Page 41 of order) – to be read as “Plant may be available for more than 75%”

CONCLUSION

- d) 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