IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT RANCHI

Case No. 23 of 2020 & MP No. 01 of 2022

Jharkhand Bijli Vitran Nigam Limited ………… ………… ………………Petitioner

Versus

Jharkhand Small Industries Association (JSIA) ………………… …….Respondent

CORAM: HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)

HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)

For the Petitioner : Mr. Mrinal Kanti Roy, Advocate
For the Respondent : Ms. Khushboo Kataruka, Advocate

Date: 1st August, 2024

1. The Petitioner-Jharkhand Bijli Vitran Nigam Limited (hereinafter referred toas 'JBVNL' or the 'Petitioner') has submitted the petition purported to be filed under Section 94 of the Electricity Act,2003 read withRegulation A41 of theJSERC (Conduct of Business) Regulations 2016 for review of the Order dated 01.10.2020passedby the Jharkhand State Electricity Regulatory Commission (hereinafter referred to as 'JSERC' or the'Commission') in Case(T) no. 13 of 2019for***True-up for FY 2018-19, Annual Performance Review for FY 2019-20 and Tariff for FY 2020-21 for Jharkhand Bijli Vitran Nigam Limited (JBVNL)".***

Submission of the Petitioner

2. Learned Counsel for the petitioner has submitted that the petition has been filed to review and modify the JBVNL True-up for FY 2018-19, Annual Performance Review for FY 2019-20 and Aggregate Revenue Requirement &Tariff for FY 2020-21 Order dated 01.10.2020; to the extent stated in the instant petition;

    I. To revise the revenue Gap of FY 2018-19, FY 2019-20 and FY 2020-21to the extent that the Loss taken over considered by the Government of Jharkhand are not considered as revenue in the respective years.

    II. To revise the Power Purchase cost of DVC and to allow the additional amount as revenue gap.

    III. To revise the Non-Tariff Income to the extent that the revenue on the account of meter rent is not considered in Non-Tariff-Income.

    IV. To revise the definition of Billing demand in case of HT Consumers.

    V. To introduce per bulb tariff for street light consumers.

VI. Review and modify the Tariff Order for True-Up for FY 2018-19, Annual Performance Review for FY 2019-20, Aggregate Revenue Requirement and Tariff for FY 2020-21 for JBVNL, dated, 1st October, 2020 to the extent of the submissions made by the petitioner in the instant review petition.

VII. To not consider the interruption in supply due to grid failure and interruptions to avoid accidents due to sudden change in weather conditions such as hail storm or intense rainfall for computing scheduled supply hours and not consider these for reduction in fixed charges

VIII. To review and correct Table 62 of impugned Order

IX. To allow the petitioner make any additional/supplementary submission in addition to the review petition filed against the impugned order

X. Condone anyinadvertent omissions/errors/shortcomings, permit the appellant (JBVNL)to add/change/modify/alter this filing and makefurther submissions as may be required at a future date.

XI. To condone any delay in filing the petition due to reasons unavoidable by the DISCOMs.

Considering the submission of petition, respondent and on the facts available on record, the respective issue has been dealt with separately, hereunder: -

ISSUEI:Consideration of loss taken over under UDAY scheme as revenue in FY 2018-19, FY 2019-20 and FY 2020-21.

<u>Submission of the Petitioner</u>

3. The Learned Counsel for the petitioner has submitted that the Commission in Tariff Order dated October 01, 2020 has determined the revenue gap for the respective years. While calculating the aforementioned gap, the Commission has considered a revenue ofRs 38.90 Crore in FY 2018-19, Rs 399.16 Crore in FY 2019-20 and Rs 310.48 Crore in FY 2020-21 from taken over of financial losses of DISCOMs by the Government of Jharkhand as provided under the UDAY Scheme. The Loss taken over under the UDAY scheme has been calculated as 10% of the revenue gap of FY 2018-19, 25% of revenue gap of FY 2019-20 and 50% of Losses of revenue gap of FY 2020-21 (i.e.) 10% of Rs 389.04 Crore, 25% of Rs 1,596.64 Crore and 50% of Rs 620.96 Crore.

4. It wassubmitted that the loan to be provided by Government of Jharkhand under the UDAY Scheme as “Revenue” while determining the Revenue Gap of Petitioner for FY 2018-19, FY 2019-20 and FY 2020-21 as the loan to be provided by the Government of Jharkhand would be provided in lieu of the financial losses of the Petitioner.

5. Further, it was submitted that the Commission has arrived at the revenue gap by reducing the actual/approved revenue from the approved Annual Revenue Requirement. Thus, disallowance made by the Commission in the Annual Revenue Requirement will reflect as losses in the Income Statement/accounts of the DISCOMs. As per the tripartite agreement signed under the UDAY scheme, these losses in the accounts of the Petitioner were to be taken over by Government of Jharkhand in a staggered way. As such, the Commission is requested to pass a suitable Order revising the revenue gap of FY 2018-19, FY 2019-20 in overall revenue gap of FY 2020-21 of the DISCOM along with the respective holding cost. As such, the Commission is requested to pass a suitable Order revising the revenue gap of FY 2018-19, FY 2019-20 in overall revenue gap of FY 2020-21 of the DISCOM along with the respective holding cost.

<u>Commission's Observation and Finding</u>

6. The Commission has observed that it has adopted a similar approach in the previous Orders dated February 28, 2019. The relevant extract of the orders has been reproduced below: -

Order for True-up for FY 2016-17, FY 2017-18, APR for FY 2018-19and ARR &Tariff for FY 2019-20.

"8.11 The Commission has observed that the Petitioner has not considered the aid received in FY 2016-17 under UDAY Scheme for Rs. 6136.37 Crore for calculation of Revenue Gap. The Commission in its previous Order dated April 27, 2018 had directed the Petitioner to expedite the conversion of State Government loan into grant/ equity as per the agreed UDAY MoU. However, the Petitioner has failed to submit the details before the Commission. Hence, the Commission has considered the amount as Grant. In addition, as per Clause 1.2 i) of the MoU Signed under UDAY Scheme, the GoJ shall take over 5% of the Loss of FY 2016-17 in FY 2017-18 and 10% of the Loss of FY 2017-18 in FY 2018-19. The same has been considered by the Commission for calculation of Revenue Gap till FY 2018-19 as tabulated below:

……"

"8.22 The Commission has computed total revenue gap till FY 2018-19 after factoring in the financial assistance under UDAY Scheme. The Commission has considered that 25% of the overall loss in FY 2018-19 shall be taken over by GoJ in FY 2019-20 as per the MoU signed under UDAY Scheme. The Commission has considered the Gap/Surplus approved till FY 2018-19 as part of FY 2019-20. The Revenue Gap approved till FY 2019-20 is

summarised below:

.....”

7. From the aforementioned excerpt of previous tariff orders, it is apparent that the Commission has maintained its previous stance in its current order dated May 31, 2023. Moreover, the Commission has consistently instructed the petitioner in both current and past orders to accelerate the conversion of the State Government loan into grant/equity in accordance with the agreed terms of the UDAY MoU. However, the petitioner had failed to comply with this directive.

8. In view of the above, **Issue No- I**, as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE II: -Power Purchase Cost of DVC.

<u>Submission of the Petitioner</u>

9. The Learned Counsel for the petitioner has submitted that it had procured more than 35% of its overall energy requirement from Damodar Valley Corporation herein referred to as DVC. As such, any disallowance in the power purchase cost of DVCin the Annual Revenue requirement ofJBVNL would have an incidence on the financial sustainability of JBVNL. The Commission in its impugned Tariff Order for the FY 2020-21 has disallowed the power purchase cost from DVCstating that the approval process of the PPA of DVC is still underway and as such, to arrive at the power purchase cost of FY 2020-21, the total power purchase from DVC is considered to be done in consumer mode.

10. Further, the learned counsel has submitted that the Commission in the impugned Tariff Order for the FY 2020-21, has allowed a Power Purchase of 4133.45 MUs @ of Rs 3.69 per unit thereby approving the Power Purchase Cost of Rs 1568.44 Cr. It is also pertinent to mention that as per Tariff Order dated 30th September 2020, the Commission notified the Tariff for DVC wherein, it has revised Tariff for HT institutional services. Based on the revised Tariff for the FY 2020-21. the average Tariff arrives to be Rs 4.67 per unit.

11. It was submitted that the Commission has approved the Power Purchase from DVC @ Rs 3.79 per unit, there has been understatement of Power Purchase cost of DVC by Rs 0.88 per unit which when multiplied with the total power purchase quantum allowed to be procured from DVC i.e. 4133.45 MUs is leading to additional financial burden of Rs361.88 Cr on JBVNL. It is also

humbly submitted before the Commission that at this point JBVNL is not contesting the decision of the Commission to calculate the power purchase cost assuming that the supplyshall be taken in consumer mode and not in schedule mode.

12. In light of the argument presented above, the petitioner has prayed to pass a suitable order revising the power purchase cost of DVC allowed to JBVNL in the FY 2020-21.

Commission's Observation and Finding

13. On perusal of the Tariff Order, it is evident that the aforesaid issue has been deliberated and discussed in the Commission Order dated October 01, 2020 in para 7.16which reads as under.

> *"7.16 As regards power purchased from DVC Koderma, the Commission is of the view that as separate proceedings are underway for the PPA approval and the PPA is yet to be approved as prima facie, it is observed that the power purchase cost from DVC Koderma is higher than the DVC"s Distribution tariff. Hence, the Commission, for projecting cost of power has estimated the normative power purchase cost for power procured from DVC Licensee."*

14. In view of the above, **Issue No-II** as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for the review is hereby rejected.

ISSUE III: -Consideration of Meter Rent in Non-Tariff Income FY 2020-21.

Submission of the Petitioner

15. TheLearned Counsel for the petitioner has submitted that the Commission in its Tariff Order dated October 01, 2020 for the FY 2020-21 has specifically mentioned that the ***meter rent*** has been abolished. However, while calculating the Non-Tariff Income for the FY 2020-21, the Commission has considered the of Rs 32.86 Crore as revenue from meter rent for FY 2020-21. Therefore, the consideration of meter rent in the Annual Revenue Requirement of the Petitioner for FY 2020-21 and subsequent years is not correct and should have been removed from the Tariff Order. The Commission is requested to remove the meter rent for FY 2020-21 in Non-Tariff Income.

Commission's Observation and findings

16. The Commission noted an inadvertent error in Table 129 and Table 130 of Chapter A8 of the Order dated October 01, 2020. The term "***Meter Rent***" as mentioned in these tables is hereby replaced with "***Transformer Rent***."

17. In light of the aforementioned rectification, there will be no impact on the

Annual Revenue Requirement (ARR) of the Control Period. Consequently, **Issue No-III**, as raised by the petitioner, is acknowledged and rectified accordingly

ISSUE IV: Revision of Minimum Billed Demand (101 kVA) for HT Consumers

Submission of the Petitioner

18. The Learned Counsel for the petitioner has submitted that as per clause 4.3 of the Jharkhand State Electricity Regulatory Commission (Electricity Supply Code) Regulation, 2015, the threshold contract demand above which, a consumer can take HT connection is 100 kVA. It was further emphasis that this Commission in its Tariff Order dated February 28, 2019 defined the Billing demand as maximum demand recorded during month or 75% of contract demand whichever is higher.

19. However, the learned counsel wants to amend the same definition as follows:

> ***"The Billing demand shall be maximum Demand recorded during the month or 75% of contract demand or 101 kVA, whichever is higher"***

20. The Counsel further explain that in case where the contract demand is less than < 135 kVA (101 kVA/75%) and recorded demand is also less than 101 kVA, the billed demand would also fall below101 kVA. Therefore, in such case the prime condition of taking HT connection would stand violated or unfulfilled.

Commission's Observation and findings

21. The Commission has adopted the same methodology as followed in previous True-up orders for FY 2016-17, FY 2017-18, APR for FY 2018-19 and ARR and Tariff for FY 2019-20 vide Order dated February 28, 2019.

22. In view of the above, **Issue No- IV** as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE V: To allow per bulb Tariff in case of Street Lights consumers where meter cannot be installed.

Submission of the Petitioner

23. The Learned Counsel has submitted a supplementary submission via Letter No. 458/CE(C&R) dated March 19, 2020, in response to the petition filed by JBVNL concerning the True-Up for FY 2018-19, the Annual Performance Review for FY 2019-20, and the ARR & Tariff for FY 2020-21. In this submission, it was requested that the commission either approve a load-based tariff for street lights, considering a 50% load factor due to their average

operational duration of 12 hours per day, or retain the tariff approved in the Tariff Order dated April 27, 2018, which was Rs 500 per 100 watts per month, given that installing meters on streetlight poles is sometimes impractical due to space constraints

Commission's Observation and findings

24. The Commission maintains the standpoint that it has afforded the Petitioners ample opportunity and extended timelines to meter all unmetered consumers on various occasion. It is crucial to emphasize that the Commission consistently issued directives through previous tariff orders on True-up for FY 2016-17, FY 2017-18, annual performance review for FY 2018-19 and ARR & Tariff for FY 2019-20 vide dated February 28, 2019 and other previous tariff order to ensure the metering of the remaining unmetered consumers. However, the Petitioner has failed to adhere to these directives. Consequently, the excuse provided by the Petitioner lacks merit. Furthermore, it is imperative to acknowledge that the Petitioner's inability to achieve compliance rests solely with them. Therefore, the resulting inefficiency on the part of the Petitioner should not impose a burden on the consumers.

25. In view of the above, **Issue No- V** as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ISSUE VI: Seeking direction/clarifications on implementation of "reduction in fixed charges"

Submission of the Petitioner

26. The Learned Counsel for the petitioner has submitted that the Commission in Tariff Order dated 01.10.2020 has stated the followings:

> *"Recovery of Complete Fixed/Demand Charges from consumers shall be based on the availability of hours of supply recorded by meters installed in the consumer's premises. JBVNL would include the same in the consumer's bill and recover the Fixed Charges only in proportion to the hours of supply as per the meter. The cut off hours for complete recovery from Fixed/Demand Charges shall be 21 hours per day for LT consumers and 23 hours per day for HT Consumers.*
>
> ***Provided that the planned outages/Rostering in the network are uploaded on its website seven days in advance with a copy to the Commission and an intimation to the respective consumers shall be excluded while computing scheduled supply hours. "***

27. The Petitioner has prayed the Commission to exclude interruption in supply

due to grid failures (both inter and intra-state) as well as electricity supply cut to avoid accidents due to sudden change in weather conditions such as hail storm or intense rainfall for computing scheduled supply hours and not consider these for reduction in fixed charges as these conditions are uncontrollable factors for Petitioner.

<u>Commission's Observation and findings</u>

28. The Commission has duly noted the petitioner's request for exemption from the reduction in fixed charges attributable to interruptions in electricity supply caused by grid failures in the Inter and Intra-State Transmission Systems, as well as interruptions aimed at preventing accidents due to sudden changes in weather conditions such as hailstorms or intense rainfall.

29. After comprehensive deliberation, the Commission has concluded that interruptions stemming from grid failures and those intended to forestall accidents due to abrupt weather changes are classified as uncontrollable factors and lie beyond the control of the petitioner.

30. In light of the above, the Commission has granted the petitioner's request, under reduction in Fixed Charges has been accordingly amended as depicted below:

> ***"Reduction in Fixed Charges***
>
> *Recovery of Complete Fixed/Demand Charges from consumers shall be based on the availability of hours of supply recorded by meters installed in the consumer's premises. JBVNL would include the same in the consumer's bill and recover the Fixed Charges only in proportion to the hours of supply as per the meter. The cut off hours for complete recovery from Fixed/Demand Charges shall be 21 hours per day for LT consumers and 23 hours per day for HT Consumers.*
>
> ***Provided that interruption due to grid failure in Inter-State and Intra-State Transmission System, interruption due to prevention of accidents due to sudden changes in weather conditions such as hail storm or intensive rainfall as declared by India Meteorological Department (IMD) or by State Government and planned outages/Rostering in the network to be uploaded on its website seven days in advance with a copy to the Commission and an intimation to the respective consumers shall be excluded while computing scheduled supply hours**."*

31. Concerning the operational challenges encountered in implementing the reduction in fixed charges within the meters billing system, the Petitioners are directed to reconfigure their billing software and meterprogram

accordingly. This reconfiguration should facilitate the incorporation of the reduction in fixed charges based on the duration of supply.

ISSUE VII: Arithmetical error in Power Procurement Table for FY 2019-20.

Submission of the Petitioner

32. The Learned counsel for the petitioner has submitted that the Commission had made arithmetical error in power procurement table 62 of FY 2019-20. Further it was prayed to kindly correct the same.

Commission's Observation and findings

33. For approval of power procurement, the Commission had considered the material, data, information on record as submitted by the petitioner annexed with main petition and additional data gap reply.

34. Accordingly,considering the submission of the petitioner, this Commission has re-calculated the power procurement cost as approved in table 62 of FY 2019 -20 vide order dated October 01, 2020 and found that approved value is correct.

35. In view of the above, **Issue No- VII** as raised by the petitioner, does not warrant any intervention through a review process, and accordingly the prayer for review of the said issue is hereby rejected.

ORDER

36. The issues raised herein above as issue No. I, II and IV to VI have already been discussed & deliberated, and the Commission has decided those issues in negative and rejected them in above paras.

37. Further for the issue raised herein above as issue No. III, the Commission is of view, that there was an inadvertent error in Table 129 and Table 130 of Chapter A8 of the Order dated October 01, 2020. Accordingly, the term "***Meter Rent***" as mentioned in said tables is hereby replaced with "***Transformer Rent***."

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

Sd/-	Sd/-
(Atul Kumar)	**(Mahendra Prasad)**
MEMBER (Technical)	**MEMBER (Law)**