

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

Case No. 08 of 2023

Damodar Valley Corporation (DVC) Petitioner
Versus
Association of DVC HT Consumers of Jharkhand Respondent

**CORAM: HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner : Mr. Chandan Kumar, SE, DVC, Kolkata
Por the Respondent : Mr. Saket Upadhayay, Advocate

Date – 11th August, 2023

1. The Petitioner-Damodar Valley Corporation has filed the instant petition under section 62, 64 & 86 of the Electricity Act, 2003 read with the applicable provisions of the DVC Act, 1948.
2. The Prayers of the petitioner are as under: -
 - (a) To approve the investment proposal towards creation of necessary infrastructure to provide supply of electricity to Consumers at 11 kV level in the state of Jharkhand;
 - (b) To allow DVC to recover the cost of the investment through Tariff as may be approved by this Hon'ble Commission.
 - (c) To pass such other order(s) as the Hon'ble Commission may deem fit and proper keeping in view the facts and circumstances of the case.

Submissions of the Petitioner

3. The representative of the petitioner-Damodar Valley Corporation (hereinafter refer to as the "DVC") submitted that DVC is a statutory body with multifarious functions constituted under the Damodar Valley Corporation Act, 1948 (hereinafter 'DVC Act') and undertakes generation of electricity, transmission of electricity and operates inter-state transmission system as well as undertakes the retail sale and supply of electricity to the consumers and also to the licensees like WBSEDCL, IPCL, JBVNL, JUSCO etc. in consumer mode in the Damodar Valley Area in its capacity of a deemed distribution licensee.
4. It was submitted that since inception, DVC had been supplying electricity to the industrial consumers at the voltage level more than 30,000 V in the Damodar Valley Area spreading across two contiguous states of West Bengal and Jharkhand in accordance with Section 18 of DVC Act, 1948. In accordance with the clause 18 (ii) of DVC Act, 1948, it was mandated that to provide power supply to consumers below 30,000 V, prior permission from the Provincial Government was required as a pre-condition. Accordingly, historically DVC only concentrated to build point to point Transmission and Distribution network to provide supply to the firm consumers at a pressure 30,000 V and above in its command area both in West Bengal and in

Jharkhand. However, State Distribution Companies and some private Distribution Companies were supplying electricity to the consumers below 30,000 V in the DVC supply area and they have developed the required infrastructure to provide supply at voltage level below 30,000 V in the supply area of DVC. After enactment of Electricity Act, 2003, DVC became a deemed Distribution Licensee and falls under the ambit of Universal Service Obligation (USO) as per Section 43 of the Electricity Act, 2003. As per the said provision of the Act, DVC was required to provide supply to any consumers willing to take power from DVC. In this regard, DVC in the past, several times, advertised in newspapers inviting applications from LT Consumers, but did not receive any encouraging response.

5. It was further submitted that DVC has again conducted a market survey through consumer melas etc and DVC has observed enthusiasm in the prospective consumers to take power from DVC at 11 kV level and till date, DVC has received application from around 86 prospective consumers with a total applied Contract Demand around 34 MVA. Considering the response received from the consumers and contemplating the growth in small and medium scale industries, DVC is sensing an opportunity to expand its foothold in its operating area by venturing into 11 kV level.
6. It was further submitted that DVC has prepared a detailed project report (DPR) for creation of 11 kV infrastructures. The DPR was placed in the Board Meeting and an investment of around Rs. 1007 Cr for creation of 975 MVA capacity at 11 kV level in the entire DVC command area spread across the state of Jharkhand and West Bengal was approved by the DVC Board.
7. It was submitted that DVC has already started to give supply to some of its consumers at 11 kV from the existing infrastructure wherever possible but to cater the larger consumer base at 11 kV level in the operating area of DVC, necessary infrastructure is required to be developed by DVC. Accordingly, DVC has already started to build-up necessary infrastructure in the 11 kV level in form of establishing new sub-stations, augmentation of existing sub-stations, lines, step down transformers etc. in accordance with the DPR.
8. The representative of the petitioner concluded that DVC is filing this instant petition for approval towards investment proposal for creation of 11 kV infrastructures in the operating area of DVC in accordance with the Regulation 6.12 of JSERC Tariff Regulation for Determination of Distribution Tariff, 2020 as amended.

Submission of the Respondent

9. Learned Counsel for the respondent submitted that the respondent is an Association of DVC's HT consumers as per its Memorandum of Understanding, with the object *inter alia*- "to file any complaint, suit, case, petition, etc. for the protection of the members of the Association, which are consumers of DVC." Thus, JCADVC represents the interest of significant HT consumers of DVC in its area of supply in Jharkhand.
10. It was submitted by the learned counsel for the respondent that the proposed investment for creation of 11 kV infrastructure will have a significant financial impact on the existing firm HT tariff of consumers of

DVC i.e., approximately a hike of 10-11 paise/kWh.

11. It was further submitted that as per Regulation 6.12 (g) and (h) of MYT (Distribution) Regulations, 2020, the said proposal of the petitioner needs to be assessed from the vantage point of "*Cost-benefit analysis; Rate reasonability and improvement in operational efficiency envisaged in the Control Period*".

Commission's Observation and findings

12. The Commission has considered the submissions of both parties and perused the materials available on records.
13. Further, clause 6.15 of JSERC (terms and conditions for Determination of Distribution tariff) Regulations, 2020 reads as under: -

"In case the capital expenditure is required for emergency work, which has not been approved in the Capital Investment Plan, the Licensee shall submit an application containing all relevant information along with reasons justifying emergency nature of the proposed work seeking approval of the Commission wherever possible:

Provided that in case the capital expenditure is required for emergency work or unforeseen situation to mitigate threat to life and property and if prior intimation thereof to the Commission shall cause any irreparable loss or injury, the Licensee may undertake Such capital expenditure and submit the details for post-facto approval of the Commission along with next Tariff Petition with all relevant details"

14. It is also observed that the proposed investment in phased manner for creation of 11kV infrastructure will have an impact on the existing tariff of DVC as such it requires public consultation process i.e. inviting suggestion/comments/objections on the proposal of the petitioner-DVC so that the proposal can be assessed on the point of "Cost benefit analysis, rate reasonability and improvement in operational efficiency"

In the result, it is ordered as under;

ORDER

15. Considering the facts and circumstances of the case and on the basis of materials available on records the prayers of the petitioner are not allowed at this juncture.
16. In view of the observations and findings mentioned herein above, the petitioner is directed to re-submit the proposal for approval of the investment towards creation of necessary infrastructure to provide supply of electricity to consumers at 11KV level in the state of Jharkhand as Business Plan with the next tariff petition.
17. The petition stands disposed off with the aforesaid directions.

Sd/-
Member (T)

Sd/-
Member (L)