IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT RANCHI

Case No. 19 of 2023

Jharkhand Urja Sancharan Nigam Limited (JUSNL) ……………………… Petitioner

CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)

For the Petitioner: Mr. Sumeet Gadodia & Mukesh Kumar, Advocates-JUSNL

Date – 20th February, 2024

1. The Petitioner - Jharkhand Urja Sancharan Nigam Limited (for short 'JUSNL' or 'Petitioner') has filed the petition under section 94 of the Electricity Act 2003, read with Order 47 rule 1 of the code of civil procedure, 1908 and clause A41 of the JSERC (Conduct of Business) Regulations, 2016 for review of Order dated 12.06.2023 for True-up for FY 2017-18.

2. Considering the submissions of the Petitioner and on the basis of the material available on record, the issues as raised by the Petitioner are being discussed and dealt with separately as hereunder.

A. Capital Expenditure & Capitalization

Submission of the Petitioner

3. Learned counsel for the petitioner has prayed to allow Capital Expenditure & Capitalization for FY 2017-18 in line with Audited Accounts as given below: -

Particulars	Opening	Addition	Closing
Capex during the Year	3,130.39	883.50	4,013.89
Capitalization	1,408.74	26.75	1,435.49
Capital Works in Progress	1,721.65	856.75	2,578.40
Asset Capital Work in Progress	713.46	791.52	1,504.98
Capital Advances	297.14	(0.01)	297.13
Advance to Suppliers	688.14	57.71	745.85
Stock of Materials at Site	22.91	7.52	30.44

4. It was pointed out that the Hon'ble Commission in its order has not allowed CWIP and provided that,

> *"5.13 The Commission has scrutinized the submission made by the Petitioner and found that the claimed figure of Closing CWIP for FY 2017-18 doesn't match the details provided by the Petitioner in its reply. Hence due to the above mentioned reason the Commission has not approved CWIP in this order."*

5. It was submitted that while disallowing the CWIP for FY 2017-18 the Hon'ble Commission has directed the petitioner to submit scheme-wise, circle wise, and item-wise details of the capital Work in Progress along with capitalization schedule and loan and equity share, funding details for the FY 15-16, FY 16-17 & FY 17-18 by the next 3 months from the date of the order which should be complied forthwith in future. It is submitted that in compliance of directive of the Hon'ble Commission, JUSNL would make its best efforts to submit the details within the prescribed time for approval of CWIP.

Commission's Observation and Finding

6. On going through the impugned order, it is evident that the said issue has been deliberated and discussed by the Commission vide order dated June 12, 2023 in para 5.11 to 5.13 which reads as under:

"5.11 The Commission has not approved the CWIP in the previous true-up order dated December 30, 2020 for FY 15-16 & FY 2016-17 and the review order dated January 11, 2023 as the Petitioner had not submitted the proper justification and scheme-wise and project wise details of CWIP as directed by the Commission.

5.12 Furthermore the Commission, vide its letter dated June 24, 2022 directed the Petitioner to provide project-wise & scheme-wise Capital work in Progress detail of Rs. 1504.98 Crore along with the work order. In compliance to Commission's query, the Petitioner vide its reply dated August 11, 2022 submitted the Scheme-wise detail of asset capital work in progress.

5.13 The Commission has scrutinized the submission made by the Petitioner and found that the claimed figure of Closing CWIP for FY 2017-18 doesn't match the details provided by the Petitioner in its reply. Hence due to the above mentioned reason the Commission has not approved CWIP in this order."

7. Taking into consideration the aforesaid observations, **Issue No-A**, as raised by the petitioner is sans merit and it references no interference on review, accordingly the prayer for review of the issue is hereby rejected.

B. Gross Fixed Asset

Submission of the Petitioner

8. The learned counsel for the petitioner has prayed the Hon'ble Commission to allow GFA on the basis of Audited Accounts for the said year which is as below:

Particulars	MYT	Petition
Opening Gross Fixed Asset (GFA)	1,317.90	1,408.74
Addition to Gross Fixed Asset (GFA)	969.01	26.75
Closing Gross Fixed Asset (GFA)	2,286.91	1,435.49

9. It was submitted that the Hon'ble Commission has considered opening GFA for FY 2017-18 equal to closing GFA for FY 2016-17 as approved in its True-up Order dated December 30, 2020 which is as below: -

Particulars	Petition	Approved
Opening Gross Fixed Asset	1,408.74	1,395.94
Asset Capitalized during the year	26.75	26.74
Closing Gross Fixed Asset	1,435.49	1,422.68

Commission's Observation and Finding

10. It is accepted norm that Opening Balance of any account shall be equal to the previous Closing Balance of the same account. As such, the Commission has considered opening GFA for FY 2017-18 equal to closing GFA for FY 2016-17 as precedence in its previous Tariff Orders.

11. In view of the above, **Issue No-B**, as raised by the petitioner, does not necessitate any interference, consequently the prayer for review of the said issue stands rejected.

C. Employee Expenses

Submission of the Petitioner

12. The Learned Counsel for the petitioner has submitted that the employee expenses primarily include costs towards salaries, Dearness Allowances, bonus, staff welfare, medical benefits, leave travel, earned leave encashment, and terminal benefits in the form of pension, gratuity etc.

13. It was submitted that it had claimed employee expenses based on actual audited values for FY 2017-18 which was Rs. 65.84 Crore. The major reason for such exceptional increase is due to the following:

a) Revision of Pay structure of the employees of JUSNL with effect from 01.01.2016;
b) Recruitment drives conducted by JUSNL.

14. It was pointed out that the increase in employee expense was due to change in pay structure and addition of new employees which was beyond the control of JUSNL.

15. It was prayed to approve employee expenses without terminal benefits on the basis of the audited accounts as given below:

Particulars	Petition	Approved	Difference	Review Petition
Employee Expenses	65.84	35.59	30.25	65.84

Commission's Observation and Finding

16. Ongoing through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.25 to 5.30 which reads as under:

*"5.25 **Employee Expenses:** The Commission in its MYT Order dated*

February 24, 2018 has approved the employee cost for 2nd control period by increasing the provisionally approved employee cost as per tariff Order dated December 14, 2015 for FY 2015-16 (excluding the amount of terminal benefits) with an inflation factor of 3.35%.

5.26 The Commission vide its letter dated June 24, 2022, has directed the Petitioner to provide the details of the exceptional increase in employee expense.

5.27 The Petitioner, in its reply dated August 11, 2022, has submitted that the major reason for the increase is due to the revision of Pay structure of the employees of JUSNL with effect from 01.01.2016. The arrear for the period from 01.01.2016 to 31.03.2017 was paid during FY 2017-18. However, the Petitioner has not provided the details of the arrear paid during the period of 01.01.2016 to 31.03.2017.

5.28 As per Note 2 of Regulation 7.36 of Transmission Tariff Regulation, 2015.

"Note 2: Any variation due to changes recommended by the Pay Commission etc will be considered separately by the Commission."

5.29 Based on the above regulation, the Commission at present is not considering the exponential increase in employee expense due to revision of Pay Structure as sufficient data is not available to the Commission. The Petitioner may be directed to approach the commission with the details of arrear paid for the period 01.01.2016 to 31.03.2017.

5.30 Therefore the Commission has considered the true up value of employee expenses (excluding terminal benefits) for FY 2017-18 in this Order and has increased it with the actual inflation factor to determine the employee expenses. The terminal benefit is approved on actuals based on audited accounts."

17. It would be evident that, **Issue No- C**, as raised by the petitioner has been discussed and deliberated in the aforementioned above and the review sought for is sans merit accordingly the prayer for review of the issue is hereby rejected.

D. A & G Expenses

<u>Submission of the Petitioner</u>

18. Learned Counsel for the petitioner had submitted that the A&G expenses were claimed as per the annual audited accounts for FY 2017-18. The major reason for increase in the A&G expense claimed by the petitioner is due to increase in Consultancy Charges paid during FY 2017-18 i.e. Rs. 18.98 Crore which was necessary in terms of business operation and hence should be treated as uncontrollable expense. Accordingly, it was prayed to approve the A&G expenses as per actual audited expenses as illustrated herein below:

Particulars	Petition	Approved	Difference	Review Petition
A & G Expenses	27.97	7.29	20.68	27.97

Commission's Observation and Finding

19. On perusal of the impugned order, it is evident that the said issue has been deliberated and discussed in the Commission's order dated June 12, 2023 as per para 5.31 to 5.32 which is extracted below;

> *"5.31 Administrative and General Expenses: The Commission in its MYT Order dated February 24, 2018 approved the A&G expenses for 2nd control period by increasing the provisionally approved value of A&G cost for FY 2016-17 as per tariff Order dated December 14, 2015 with an inflation factor of 3.35%.*
>
> *5.32 The Commission has considered the true up value of Administrative and General Expenses for FY 2017-18 in this Order and has increased it with the actual inflation factor to determine the Administrative and General Expense."*

20. In view of the above, **Issue No- D**, 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.

E. Depreciation

Submission of the Petitioner

21. The counsel representing the JUSNL asserted a depreciation amount of Rs. 74.77 Crore, derived from the Gross Fixed Assets (GFA) in the audited accounts, in accordance with the depreciation schedule outlined in Appendix-l of the JSERC Transmission Tariff Regulations, 2015, as enumerated in the table below:

FY 2017-18 (Audited)									
Sl. No.	Particulars	Gross Fixed Assets			Provision for Depreciation			Net Fixed Assets	
		At Beginning of Year	Additions/(Disposal) during the year	At the End of Year	At Beginning of Year	Depreciation during the year	Accumulated Depreciation at end of the year	At the End of Year	At Beginning of Year
1.	Land and land rights	4.32	-	4.32	-	-	-	4.32	4.32
2.	Building	11.93	0.11	12.04	6.13	0.40	6.53	5.50	5.80
3.	Plant and Machinery	986.30	23.54	1,009.84	344.48	53.37	397.85	611.99	641.82
4.	Lines and Cable Network	401.60	2.38	403.98	135.46	20.76	156.22	247.76	266.14
5.	Vehicles	0.35	-	0.35	0.22	0.04	0.27	0.08	0.13
6.	Furniture	0.55	0.18	0.73	0.21	0.04	0.26	0.47	0.34

FY 2017-18 (Audited)									
Sl. No.	Particulars	Gross Fixed Assets			Provision for Depreciation			Net Fixed Assets	
		At Beginning of Year	Additions/(Disposal) during the year	At the End of Year	At Beginning of Year	Depreciation during the year	Accumulated Depreciation at end of the year	At the End of Year	At Beginning of Year
	and Fixture								
7.	Office Equipment	0.76	0.23	0.99	0.44	0.05	0.49	0.49	0.32
8.	Spare Units/Service Units	0.21	-	0.21	0.19	-	0.19	0.02	0.02
9.	Assets taken over from pending final valuation.	-	-	-	-	-	-	-	-
10.	Others Civil Works	2.72	0.30	3.02	0.49	0.10	0.59	2.43	2.23
	Total (1 to 10)	1,408.74	26.75	1,435.49	487.63	74.77	562.40	873.08	921.11

22. On the aforesaid ground prayer has been made to approve depreciation as per audited accounts of FY 2017-18 as mentioned below

Particulars	Petition	Approved	Difference	Review Petition
Depreciation	74.77	73.93	0.84	74.77

Commission's Observation and Finding

23. On going through the impugned order, it is amply clear that the said issue has been deliberated and discussed by the Commission vide order dated June 12, 2023 as per para 5.39 to 5.42 reproduced hereunder:

"5.39 The Commission has observed that the depreciation claimed in the Petition for FY 2017-18 does not match the depreciation calculated by the Commission.

5.40 The Commission has calculated asset wise depreciation based on approved value of opening Gross Fixed Asset and addition during the year in this order. The depreciation rate for the various asset classes have been considered as per Appendix-I of JSERC Transmission Tariff Regulations, 2015.

5.41 The Commission, in its MYT Order dated February 24, 2018 has determined asset-wise depreciation with additions in asset during the year, considered as per the approved capitalization for the year. The Commission considered the depreciation rates for the various asset classes as per the Transmission Tariff Regulations, 2015.

Accordingly, the depreciation cost was approved by the Commission for the control period FY 2016-17 to FY 2020-21.

5.42 The Commission has adopted the similar methodology for computing the depreciation for the FY 2017-18.

Table 10: Depreciation as approved by the Commission (Rs. Crore)

Particulars	***FY 2017-18***		
	MYT Order	***Petition***	***Approved***
Depreciation	*82.16*	*74.77*	*73.93*

24. In view of the discussions and observation made hereinabove, **Issue No- E**, as raised by the petitioner, does not merit any interference on review as the result the prayer for the review of the said issue is hereby rejected.

F. Interest on Loan

Submission of the Petitioner

25. Learned counsel for the petitioner had submitted that the loan balance for FY 2017-18 has substantially increased with increase in capital expenditure and capitalization during FY 2017-18. Accordingly, the petitioner has claimed interest on loan of Rs. 382.94 Crore against the approved value in MYT Order of Rs. 135.75 Crore.

26. It was submitted that the interest expense comprises of five expenses which are Interest on State Government Loan of Rs. 382.20 crores, Interest on Group Saving Scheme of Rs. 0.0250 crores, Interest on G.P.F of Rs. 0.71 crores, Interest on security deposit from staff of Rs. 0.0002 crores as given below:

27. It was pointed out that the state government regularly supports the Petitioner by given loan for Capex requirement which is mostly required to cater the load demand. The interest of loan expenses is genuine in nature and this is an obligation of the licensee to pay the interest on regular interval.

Particulars	**Amount (Rs. Cr.)**
Interest on State Government Loan	382.20
Interest on Group Saving Scheme	0.0250
Interest on GPF	0.71
interest on Security deposit from Staff	0.0002
Total	382.94

28. It was submitted that it can be ascertained as per regulations 6.17 that the cost of debt while to be approved in true up, need to be relied on audited accounts also.

29. It was prayed to allow the Interest on Loan on actual basis of the audited accounts as provided below:

Particulars	**Petition**	**Approved**	**Difference**	**Review Petition**
Interest on Loan	382.94	82.87	300.07	382.94

Commission's Observation and Finding

30. On going through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.46 to 5.50 which reads as under:

"5.46 The Commission vide its letter dated June 24, 2022 directed the Petitioner to reconcile the interest charges considering the actual capitalization and repayment made instead of loan amount received from the State Government.

5.47 In its reply dated August 11, 2022 the Petitioner has submitted that the interest on loan has been claimed based on audited accounts for FY 2017-18.

5.48 The Commission has calculated interest on loans as per JSERC Transmission Tariff Regulations, 2015. The Commission has considered the opening balance of the normative loan for FY 2017-18 equal to the approved closing balance of FY 2016-17 from the True-up Order dated December 30, 2020.

5.49 As the Petitioner has submitted that all the capitalization is carried out by taking loans from State Government, hence, the Commission has considered the entire capitalisation during the year funded through loan.

5.50 The deemed repayment for the financial year has been considered equal to depreciation allowed for FY 2017-18 in accordance with the JSERC Transmission Tariff Regulations, 2015."

31. Thus considering the aspect that **Issue No- F**, 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.

G. Return on Equity

Submission of the Petitioner

32. Learned Counsel for the Petitioner has submitted that it has considered equity base of Rs. 972.96 Crore for FY 2017-18 as reflected in the annual audited accounts. The applicable return on equity has been calculated considering 15.50% rate of return as per Regulation 7.12 of JSERC Transmission Tariff Regulations, 2015.

33. It was submitted that the Return on equity to be allowed by the Hon'ble Commission, should be based on audited accounts.

34. It was pointed out that the Hon'ble Commission had not relied on the actual/audited accounts by not considering the equity base of Rs. 972.96 Crore, and approved an amount of Rs. 54.34 Crore.

35. It was prayed to the Hon'ble Commission to approve the claimed amount

of Rs. 150.81 Crore as provided below:

Particulars	Petition	Approved	Difference	Review Petition
Return on Equity	150.81	54.34	96.47	150.81

Commission's Observation and Finding

36. On going through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.62 to 5.66 which reads as under:

5.62 The Commission is of the view that the Petitioner has computed the equity component more than the normative equity of 30% of the GFA. The Petitioner was required to justify its claim of equity amount of Rs. 972.96 Crore out of the Total Gross Fixed Asset of Rs. 1435.49 Crore.

5.63 In the reply dated August 11, 2022 the Petitioner has submitted that the amount of Rs. 972.96Crore shown as "Restructuring Account Pending adjustment" is part of the equity. As per Revised Transfer Scheme, 2015 vide notification no. 2917 dated 20-11-2015 of Energy Department, GOJ, and JUSNL has an opening equity as on 06.01.2014 amounting to Rs.972.96 Crore.

5.64 The Commission had directed the Petitioner vide letter dated August 08, 2022 to submit the relevant documents with respect to the loans sanctioned as well as the amount sanctioned and amount capitalized of the sanctioned loan for calculation of interest on loan.

5.65 In its reply dated August 11, 2022 the Petitioner has submitted the financing details of loans from the State Government. The Commission, after considering the submission of the Petitioner, is of the view that the equity component is nil and has approved nil equity for the FY 2017-18.

5.66 The Commission has considered the opening balance for FY 2017-18 as closing balance of equity for FY 2016-17 as per True-up Order dated December 30, 2020."

37. In view of the above, **Issue No- G**, 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.

H. Normative Annual Transmission System Availability factor (NATSAF)

Submission of the Petitioner

38. The Learned Counsel for the petitioner vide its Letter No. 71/JUSNL dated 03.06.2022, submitted the details of Annual Transmission system availability of 98.89% for FY 2017-18 against the Normative Transmission availability of 98.50% as per clause 8.3 of JSERC Transmission Tariff Regulations, 2015. The Regulation provides provision for allowance of incentive in case the availability of the Transmission system is more than the normative parameter. The detailed calculation as submitted as

additional submission, is provided below:

S. No.	Particulars	Nomenclature	FY 2017-18
1.	Annual Transmission System Availability Factor	A	98.89%
2.	Annual Transmission Target Availability Factor for Incentive Consideration as per JSERC Regulations	B	98.50%
3.	Max availability factor that can be claimed for incentive	C	99.75%
4.	Net Aggregate Revenue Requirement (Rs. Cr.)	D	747.34
5.	Incentive/(Penalty) to be claimed (Rs. Cr.)	E = D*(A)/(B)/100	7.50

39. It was submitted by the petitioner that the Hon'ble Commission had not provided any approval for incentive on Transmission availability.

40. It was prayed to the Hon'ble Commission to approve incentive of Rs. 7.50 Crore for FY 2017-18 for Transmission system availability. The details of Annual Transmission system availability for FY 2017-18 is enclosed as Annexure-B.

Particulars	Petition	Approved	Difference	Review Petition
Incentive for Transmission system availability (Rs. Cr.)	7.50	-	7.50	7.50

Commission's Observation and Finding

41. The Commission observes that there is conceptual error in the computation of incentive for Transmission system availability for FY 2017-18 as such the Commission, after prudent check, hereby outlined clause 8.6 to clause 8.7 of the JSERC (Terms and Condition for Determination of Transmission Tariff, Regulation 2015) for the approval of incentive for Transmission system availability for FY 2017-18, as reproduced below:

"8.6 The fixed cost of the Transmission System shall be computed on annual basis, in accordance with norms contained in these Regulations, aggregated as appropriate, and recovered on monthly basis as transmission charge from the users.

8.7 The transmission charge (inclusive of incentive) payable for a calendar month for a Transmission System or part thereof shall be

a. For TAFM < 98%
AFC x (NDM/NDY) x (TAFM/98%)

b. For TAFM: 98%< TAFM < 98.5%
AFC x (NDM/NDY) x (1)

c. For TAFM: 98.5%< TAFM < 99.75%
AFC x (NDM/NDY) x (TAFM/98.5%)

d. For TAFM > 99.75%
AFC x (NDM/NDY) x (99.75%/98.5%)

Where,
AFC = Annual fixed cost specified for the year, in Rupees;
NDM = Number of days in the month;
NDY = Number of days in the year; and

TAFM = Transmission system availability factor for the month, in Percent, computed in accordance with Appendix –III to these Regulations."

42. Based on the above submission, and on prudent check the Commission approves the Incentive as summarized in the following table below:

Month	No. of Days	TAFM as Certified by the SLDC	ARR including Incentive
April	30.00	97.45%	25.40
May	31.00	99.38%	26.63
June	30.00	99.16%	25.71
July	31.00	98.77%	26.46
August	31.00	99.08%	26.55
September	30.00	98.97%	25.66
October	31.00	98.55%	26.40
November	30.00	99.32%	25.75
December	31.00	99.24%	26.59
January	31.00	99.07%	26.54
February	28.00	98.75%	23.90
March	31.00	98.97%	26.52
Total	**365.00**		**312.10**

Particulars	Approved
ARR (Approved)	296.75
NTI (Approved)	13.98
Annual Fixed Cost	310.73
AFC inclusive of Incentive	312.10
Net Incentive	**1.37**

I. Expenses for SLDC

Submission of the Petitioner

43. The Learned Counsel for the petitioner has submitted the O&M expenses for the SLDC amounting to Rs. 5.11 Crore, however the order has found no mention of SLDC expenses. The petitioner further submits that it has already submitted the separate Trail balance sheet for the SLDC expenses for FY 2017-18.

44. It was prayed to the Hon'ble Commission to approve the expenses as claimed for FY 2017-18.

Particulars	Petition	Approved	Difference	Review Petition
Expenses for SLDC (Rs. Cr.)	5.11	-	5.11	5.11

Commission's Observation and Finding

45. The Commission has noted that the approval of the true-up for FY 2017-18 has been granted based on the consolidated accounts of JSUNL as a whole, encompassing SLDC expenses.

46. In view of the above, **Issue No- G**, 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.

J. Treatment of Revenue Gap for True Up of FY 2017-18

Submission of the Petitioner

47. The Learned Counsel for the petitioner has submitted that the Hon'ble Commission, while approving the True Up for FY 2015-16 and FY 2016-17 has provided that:

"6.68 The Commission in this Order has approved each component of Annual Revenue Requirement and approves the Gap for FY 2016-17 as shown below:

6.69 The Gap/(Surplus) approved in this Order for FY 2015-16 and FY 2016-17 will be passed-on to the Beneficiary while carrying out the Annual Revenue Requirement for subsequent year."

48. It was pointed out that the Hon'ble Commission in its True Up Order for FY 2017-18 has not considered the revenue gap from FY 2013-14 (6th Jan 2014 to 31st Mar 2014) to FY 2016-17 and hence the treatment of the gap is left out. The Petitioner humbly requests the Hon'ble Commission to define the method for treatment of Revenue Gap for the said period.

Commission's Observation and Finding

49. On going through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.76 which reads as under:

"5.76 Further, the Commission is of the view that as the Petitioner has not filed the Petition in time, therefore, no carrying cost on the gap amount shall be allowed for the period of delay."

50. In view of the above, **Issue No- J**, 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

In the result, it is ordered as;

ORDER

51. In view of the above observation and findings, the details of expenses allowed in Tariff Order dated 12.06.2023 is being reviewed and accordingly revised as shown below:

S. No.	Particulars	Approved in Order dated 12.06.2023	Claimed in Review Petition for FY 2017-18	Allowed in review petition for FY 2017-18
a)	Employee Expense	35.59	65.84	-
b)	A&G Expense	7.29	27.97	-
c)	Depreciation	73.93	74.77	-
d)	Interest & Finance Charge	82.87	382.94	-
e)	Return on Equity	54.34	150.81	
f)	Incentive for Transmission system availability	-	7.50	1.37
g)	SLDC Expense	-	5.11	-
	TOTAL	254.02	714.94	1.37
Total ARR after review Order is Rs 255.39 Crore i.e. Rs (254.02+1.37) Cr.				

52. The review petition is disposed off accordingly.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson

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

For the Petitioner: Mr. Sumeet Gadodia & Mukesh Kumar, Advocates-JUSNL

Date – 20th February, 2024

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5. It was submitted that while disallowing the CWIP for FY 2017-18 the Hon'ble Commission has directed the petitioner to submit scheme-wise, circle wise, and item-wise details of the capital Work in Progress along with capitalization schedule and loan and equity share, funding details for the FY 15-16, FY 16-17 & FY 17-18 by the next 3 months from the date of the order which should be complied forthwith in future. It is submitted that in compliance of directive of the Hon'ble Commission, JUSNL would make its best efforts to submit the details within the prescribed time for approval of CWIP.

Commission's Observation and Finding

6. On going through the impugned order, it is evident that the said issue has been deliberated and discussed by the Commission vide order dated June 12, 2023 in para 5.11 to 5.13 which reads as under:

"5.11 The Commission has not approved the CWIP in the previous true-up order dated December 30, 2020 for FY 15-16 & FY 2016-17 and the review order dated January 11, 2023 as the Petitioner had not submitted the proper justification and scheme-wise and project wise details of CWIP as directed by the Commission.

5.12 Furthermore the Commission, vide its letter dated June 24, 2022 directed the Petitioner to provide project-wise & scheme-wise Capital work in Progress detail of Rs. 1504.98 Crore along with the work order. In compliance to Commission's query, the Petitioner vide its reply dated August 11, 2022 submitted the Scheme-wise detail of asset capital work in progress.

5.13 The Commission has scrutinized the submission made by the Petitioner and found that the claimed figure of Closing CWIP for FY 2017-18 doesn't match the details provided by the Petitioner in its reply. Hence due to the above mentioned reason the Commission has not approved CWIP in this order."

7. Taking into consideration the aforesaid observations, **Issue No-A**, as raised by the petitioner is sans merit and it references no interference on review, accordingly the prayer for review of the issue is hereby rejected.

B. Gross Fixed Asset

Submission of the Petitioner

8. The learned counsel for the petitioner has prayed the Hon'ble Commission to allow GFA on the basis of Audited Accounts for the said year which is as below:

Particulars	MYT	Petition
Opening Gross Fixed Asset (GFA)	1,317.90	1,408.74
Addition to Gross Fixed Asset (GFA)	969.01	26.75
Closing Gross Fixed Asset (GFA)	2,286.91	1,435.49

9. It was submitted that the Hon'ble Commission has considered opening GFA for FY 2017-18 equal to closing GFA for FY 2016-17 as approved in its True-up Order dated December 30, 2020 which is as below: -

Particulars	Petition	Approved
Opening Gross Fixed Asset	1,408.74	1,395.94
Asset Capitalized during the year	26.75	26.74
Closing Gross Fixed Asset	1,435.49	1,422.68

Commission's Observation and Finding

10. It is accepted norm that Opening Balance of any account shall be equal to the previous Closing Balance of the same account. As such, the Commission has considered opening GFA for FY 2017-18 equal to closing GFA for FY 2016-17 as precedence in its previous Tariff Orders.

11. In view of the above, **Issue No-B**, as raised by the petitioner, does not necessitate any interference, consequently the prayer for review of the said issue stands rejected.

C. Employee Expenses

Submission of the Petitioner

12. The Learned Counsel for the petitioner has submitted that the employee expenses primarily include costs towards salaries, Dearness Allowances, bonus, staff welfare, medical benefits, leave travel, earned leave encashment, and terminal benefits in the form of pension, gratuity etc.

13. It was submitted that it had claimed employee expenses based on actual audited values for FY 2017-18 which was Rs. 65.84 Crore. The major reason for such exceptional increase is due to the following:

a) Revision of Pay structure of the employees of JUSNL with effect from 01.01.2016;
b) Recruitment drives conducted by JUSNL.

14. It was pointed out that the increase in employee expense was due to change in pay structure and addition of new employees which was beyond the control of JUSNL.

15. It was prayed to approve employee expenses without terminal benefits on the basis of the audited accounts as given below:

Particulars	Petition	Approved	Difference	Review Petition
Employee Expenses	65.84	35.59	30.25	65.84

Commission's Observation and Finding

16. Ongoing through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.25 to 5.30 which reads as under:

*"5.25 **Employee Expenses:** The Commission in its MYT Order dated*

February 24, 2018 has approved the employee cost for 2nd control period by increasing the provisionally approved employee cost as per tariff Order dated December 14, 2015 for FY 2015-16 (excluding the amount of terminal benefits) with an inflation factor of 3.35%.

5.26 The Commission vide its letter dated June 24, 2022, has directed the Petitioner to provide the details of the exceptional increase in employee expense.

5.27 The Petitioner, in its reply dated August 11, 2022, has submitted that the major reason for the increase is due to the revision of Pay structure of the employees of JUSNL with effect from 01.01.2016. The arrear for the period from 01.01.2016 to 31.03.2017 was paid during FY 2017-18. However, the Petitioner has not provided the details of the arrear paid during the period of 01.01.2016 to 31.03.2017.

5.28 As per Note 2 of Regulation 7.36 of Transmission Tariff Regulation, 2015.

"Note 2: Any variation due to changes recommended by the Pay Commission etc will be considered separately by the Commission."

5.29 Based on the above regulation, the Commission at present is not considering the exponential increase in employee expense due to revision of Pay Structure as sufficient data is not available to the Commission. The Petitioner may be directed to approach the commission with the details of arrear paid for the period 01.01.2016 to 31.03.2017.

5.30 Therefore the Commission has considered the true up value of employee expenses (excluding terminal benefits) for FY 2017-18 in this Order and has increased it with the actual inflation factor to determine the employee expenses. The terminal benefit is approved on actuals based on audited accounts."

17. It would be evident that, **Issue No- C**, as raised by the petitioner has been discussed and deliberated in the aforementioned above and the review sought for is sans merit accordingly the prayer for review of the issue is hereby rejected.

D. A & G Expenses

<u>Submission of the Petitioner</u>

18. Learned Counsel for the petitioner had submitted that the A&G expenses were claimed as per the annual audited accounts for FY 2017-18. The major reason for increase in the A&G expense claimed by the petitioner is due to increase in Consultancy Charges paid during FY 2017-18 i.e. Rs. 18.98 Crore which was necessary in terms of business operation and hence should be treated as uncontrollable expense. Accordingly, it was prayed to approve the A&G expenses as per actual audited expenses as illustrated herein below:

Particulars	Petition	Approved	Difference	Review Petition
A & G Expenses	27.97	7.29	20.68	27.97

Commission's Observation and Finding

19. On perusal of the impugned order, it is evident that the said issue has been deliberated and discussed in the Commission's order dated June 12, 2023 as per para 5.31 to 5.32 which is extracted below;

"5.31 Administrative and General Expenses: The Commission in its MYT Order dated February 24, 2018 approved the A&G expenses for 2nd control period by increasing the provisionally approved value of A&G cost for FY 2016-17 as per tariff Order dated December 14, 2015 with an inflation factor of 3.35%.

5.32 The Commission has considered the true up value of Administrative and General Expenses for FY 2017-18 in this Order and has increased it with the actual inflation factor to determine the Administrative and General Expense."

20. In view of the above, **Issue No- D**, 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.

E. Depreciation

Submission of the Petitioner

21. The counsel representing the JUSNL asserted a depreciation amount of Rs. 74.77 Crore, derived from the Gross Fixed Assets (GFA) in the audited accounts, in accordance with the depreciation schedule outlined in Appendix-l of the JSERC Transmission Tariff Regulations, 2015, as enumerated in the table below:

FY 2017-18 (Audited)									
Sl. No.	Particulars	Gross Fixed Assets			Provision for Depreciation			Net Fixed Assets	
		At Beginning of Year	Additions/(Disposal) during the year	At the End of Year	At Beginning of Year	Depreciation during the year	Accumulated Depreciation at end of the year	At the End of Year	At Beginning of Year
1.	Land and land rights	4.32	-	4.32	-	-	-	4.32	4.32
2.	Building	11.93	0.11	12.04	6.13	0.40	6.53	5.50	5.80
3.	Plant and Machinery	986.30	23.54	1,009.84	344.48	53.37	397.85	611.99	641.82
4.	Lines and Cable Network	401.60	2.38	403.98	135.46	20.76	156.22	247.76	266.14
5.	Vehicles	0.35	-	0.35	0.22	0.04	0.27	0.08	0.13
6.	Furniture	0.55	0.18	0.73	0.21	0.04	0.26	0.47	0.34

FY 2017-18 (Audited)									
Sl. No.	Particulars	Gross Fixed Assets			Provision for Depreciation			Net Fixed Assets	
		At Beginning of Year	Additions/(Disposal) during the year	At the End of Year	At Beginning of Year	Depreciation during the year	Accumulated Depreciation at end of the year	At the End of Year	At Beginning of Year
	and Fixture								
7.	Office Equipment	0.76	0.23	0.99	0.44	0.05	0.49	0.49	0.32
8.	Spare Units/Service Units	0.21	-	0.21	0.19	-	0.19	0.02	0.02
9.	Assets taken over from pending final valuation.	-	-	-	-	-	-	-	-
10.	Others Civil Works	2.72	0.30	3.02	0.49	0.10	0.59	2.43	2.23
	Total (1 to 10)	1,408.74	26.75	1,435.49	487.63	74.77	562.40	873.08	921.11

22. On the aforesaid ground prayer has been made to approve depreciation as per audited accounts of FY 2017-18 as mentioned below

Particulars	Petition	Approved	Difference	Review Petition
Depreciation	74.77	73.93	0.84	74.77

Commission's Observation and Finding

23. On going through the impugned order, it is amply clear that the said issue has been deliberated and discussed by the Commission vide order dated June 12, 2023 as per para 5.39 to 5.42 reproduced hereunder:

"5.39 The Commission has observed that the depreciation claimed in the Petition for FY 2017-18 does not match the depreciation calculated by the Commission.

5.40 The Commission has calculated asset wise depreciation based on approved value of opening Gross Fixed Asset and addition during the year in this order. The depreciation rate for the various asset classes have been considered as per Appendix-I of JSERC Transmission Tariff Regulations, 2015.

5.41 The Commission, in its MYT Order dated February 24, 2018 has determined asset-wise depreciation with additions in asset during the year, considered as per the approved capitalization for the year. The Commission considered the depreciation rates for the various asset classes as per the Transmission Tariff Regulations, 2015.

Accordingly, the depreciation cost was approved by the Commission for the control period FY 2016-17 to FY 2020-21.

5.42 The Commission has adopted the similar methodology for computing the depreciation for the FY 2017-18.

Table 10: Depreciation as approved by the Commission (Rs. Crore)

Particulars	***FY 2017-18***		
	MYT Order	***Petition***	***Approved***
Depreciation	*82.16*	*74.77*	*73.93*

24. In view of the discussions and observation made hereinabove, **Issue No- E**, as raised by the petitioner, does not merit any interference on review as the result the prayer for the review of the said issue is hereby rejected.

F. Interest on Loan

Submission of the Petitioner

25. Learned counsel for the petitioner had submitted that the loan balance for FY 2017-18 has substantially increased with increase in capital expenditure and capitalization during FY 2017-18. Accordingly, the petitioner has claimed interest on loan of Rs. 382.94 Crore against the approved value in MYT Order of Rs. 135.75 Crore.

26. It was submitted that the interest expense comprises of five expenses which are Interest on State Government Loan of Rs. 382.20 crores, Interest on Group Saving Scheme of Rs. 0.0250 crores, Interest on G.P.F of Rs. 0.71 crores, Interest on security deposit from staff of Rs. 0.0002 crores as given below:

27. It was pointed out that the state government regularly supports the Petitioner by given loan for Capex requirement which is mostly required to cater the load demand. The interest of loan expenses is genuine in nature and this is an obligation of the licensee to pay the interest on regular interval.

Particulars	**Amount (Rs. Cr.)**
Interest on State Government Loan	382.20
Interest on Group Saving Scheme	0.0250
Interest on GPF	0.71
interest on Security deposit from Staff	0.0002
Total	382.94

28. It was submitted that it can be ascertained as per regulations 6.17 that the cost of debt while to be approved in true up, need to be relied on audited accounts also.

29. It was prayed to allow the Interest on Loan on actual basis of the audited accounts as provided below:

Particulars	**Petition**	**Approved**	**Difference**	**Review Petition**
Interest on Loan	382.94	82.87	300.07	382.94

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

30. On going through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.46 to 5.50 which reads as under:

"5.46 The Commission vide its letter dated June 24, 2022 directed the Petitioner to reconcile the interest charges considering the actual capitalization and repayment made instead of loan amount received from the State Government.

5.47 In its reply dated August 11, 2022 the Petitioner has submitted that the interest on loan has been claimed based on audited accounts for FY 2017-18.

5.48 The Commission has calculated interest on loans as per JSERC Transmission Tariff Regulations, 2015. The Commission has considered the opening balance of the normative loan for FY 2017-18 equal to the approved closing balance of FY 2016-17 from the True-up Order dated December 30, 2020.

5.49 As the Petitioner has submitted that all the capitalization is carried out by taking loans from State Government, hence, the Commission has considered the entire capitalisation during the year funded through loan.

5.50 The deemed repayment for the financial year has been considered equal to depreciation allowed for FY 2017-18 in accordance with the JSERC Transmission Tariff Regulations, 2015."

31. Thus considering the aspect that **Issue No- F**, 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.

G. Return on Equity

<u>Submission of the Petitioner</u>

32. Learned Counsel for the Petitioner has submitted that it has considered equity base of Rs. 972.96 Crore for FY 2017-18 as reflected in the annual audited accounts. The applicable return on equity has been calculated considering 15.50% rate of return as per Regulation 7.12 of JSERC Transmission Tariff Regulations, 2015.

33. It was submitted that the Return on equity to be allowed by the Hon'ble Commission, should be based on audited accounts.

34. It was pointed out that the Hon'ble Commission had not relied on the actual/audited accounts by not considering the equity base of Rs. 972.96 Crore, and approved an amount of Rs. 54.34 Crore.

35. It was prayed to the Hon'ble Commission to approve the claimed amount

of Rs. 150.81 Crore as provided below:

Particulars	Petition	Approved	Difference	Review Petition
Return on Equity	150.81	54.34	96.47	150.81

Commission's Observation and Finding

36. On going through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.62 to 5.66 which reads as under:

5.62 The Commission is of the view that the Petitioner has computed the equity component more than the normative equity of 30% of the GFA. The Petitioner was required to justify its claim of equity amount of Rs. 972.96 Crore out of the Total Gross Fixed Asset of Rs. 1435.49 Crore.

5.63 In the reply dated August 11, 2022 the Petitioner has submitted that the amount of Rs. 972.96Crore shown as "Restructuring Account Pending adjustment" is part of the equity. As per Revised Transfer Scheme, 2015 vide notification no. 2917 dated 20-11-2015 of Energy Department, GOJ, and JUSNL has an opening equity as on 06.01.2014 amounting to Rs.972.96 Crore.

5.64 The Commission had directed the Petitioner vide letter dated August 08, 2022 to submit the relevant documents with respect to the loans sanctioned as well as the amount sanctioned and amount capitalized of the sanctioned loan for calculation of interest on loan.

5.65 In its reply dated August 11, 2022 the Petitioner has submitted the financing details of loans from the State Government. The Commission, after considering the submission of the Petitioner, is of the view that the equity component is nil and has approved nil equity for the FY 2017-18.

5.66 The Commission has considered the opening balance for FY 2017-18 as closing balance of equity for FY 2016-17 as per True-up Order dated December 30, 2020."

37. In view of the above, **Issue No- G**, 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.

H. Normative Annual Transmission System Availability factor (NATSAF)

Submission of the Petitioner

38. The Learned Counsel for the petitioner vide its Letter No. 71/JUSNL dated 03.06.2022, submitted the details of Annual Transmission system availability of 98.89% for FY 2017-18 against the Normative Transmission availability of 98.50% as per clause 8.3 of JSERC Transmission Tariff Regulations, 2015. The Regulation provides provision for allowance of incentive in case the availability of the Transmission system is more than the normative parameter. The detailed calculation as submitted as

additional submission, is provided below:

S. No.	Particulars	Nomenclature	FY 2017-18
1.	Annual Transmission System Availability Factor	A	98.89%
2.	Annual Transmission Target Availability Factor for Incentive Consideration as per JSERC Regulations	B	98.50%
3.	Max availability factor that can be claimed for incentive	C	99.75%
4.	Net Aggregate Revenue Requirement (Rs. Cr.)	D	747.34
5.	Incentive/(Penalty) to be claimed (Rs. Cr.)	E = D*(A)/(B)/100	7.50

39. It was submitted by the petitioner that the Hon'ble Commission had not provided any approval for incentive on Transmission availability.

40. It was prayed to the Hon'ble Commission to approve incentive of Rs. 7.50 Crore for FY 2017-18 for Transmission system availability. The details of Annual Transmission system availability for FY 2017-18 is enclosed as Annexure-B.

Particulars	Petition	Approved	Difference	Review Petition
Incentive for Transmission system availability (Rs. Cr.)	7.50	-	7.50	7.50

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

41. The Commission observes that there is conceptual error in the computation of incentive for Transmission system availability for FY 2017-18 as such the Commission, after prudent check, hereby outlined clause 8.6 to clause 8.7 of the JSERC (Terms and Condition for Determination of Transmission Tariff, Regulation 2015) for the approval of incentive for Transmission system availability for FY 2017-18, as reproduced below:

"8.6 The fixed cost of the Transmission System shall be computed on annual basis, in accordance with norms contained in these Regulations, aggregated as appropriate, and recovered on monthly basis as transmission charge from the users.

8.7 The transmission charge (inclusive of incentive) payable for a calendar month for a Transmission System or part thereof shall be

a. For TAFM < 98%
AFC x (NDM/NDY) x (TAFM/98%)

b. For TAFM: 98%< TAFM < 98.5%
AFC x (NDM/NDY) x (1)

c. For TAFM: 98.5%< TAFM < 99.75%
AFC x (NDM/NDY) x (TAFM/98.5%)

d. For TAFM > 99.75%
AFC x (NDM/NDY) x (99.75%/98.5%)

Where,
AFC = Annual fixed cost specified for the year, in Rupees;
NDM = Number of days in the month;
NDY = Number of days in the year; and

TAFM = Transmission system availability factor for the month, in Percent, computed in accordance with Appendix –III to these Regulations."

42. Based on the above submission, and on prudent check the Commission approves the Incentive as summarized in the following table below:

Month	**No. of Days**	**TAFM as Certified by the SLDC**	**ARR including Incentive**
April	30.00	97.45%	25.40
May	31.00	99.38%	26.63
June	30.00	99.16%	25.71
July	31.00	98.77%	26.46
August	31.00	99.08%	26.55
September	30.00	98.97%	25.66
October	31.00	98.55%	26.40
November	30.00	99.32%	25.75
December	31.00	99.24%	26.59
January	31.00	99.07%	26.54
February	28.00	98.75%	23.90
March	31.00	98.97%	26.52
Total	**365.00**		**312.10**

Particulars	**Approved**
ARR (Approved)	296.75
NTI (Approved)	13.98
Annual Fixed Cost	310.73
AFC inclusive of Incentive	312.10
Net Incentive	**1.37**

I. Expenses for SLDC

<u>Submission of the Petitioner</u>

43. The Learned Counsel for the petitioner has submitted the O&M expenses for the SLDC amounting to Rs. 5.11 Crore, however the order has found no mention of SLDC expenses. The petitioner further submits that it has already submitted the separate Trail balance sheet for the SLDC expenses for FY 2017-18.

44. It was prayed to the Hon'ble Commission to approve the expenses as claimed for FY 2017-18.

Particulars	Petition	Approved	Difference	Review Petition
Expenses for SLDC (Rs. Cr.)	5.11	-	5.11	5.11

Commission's Observation and Finding

45. The Commission has noted that the approval of the true-up for FY 2017-18 has been granted based on the consolidated accounts of JSUNL as a whole, encompassing SLDC expenses.

46. In view of the above, **Issue No- G**, 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.

J. Treatment of Revenue Gap for True Up of FY 2017-18

Submission of the Petitioner

47. The Learned Counsel for the petitioner has submitted that the Hon'ble Commission, while approving the True Up for FY 2015-16 and FY 2016-17 has provided that:

"6.68 The Commission in this Order has approved each component of Annual Revenue Requirement and approves the Gap for FY 2016-17 as shown below:

6.69 The Gap/(Surplus) approved in this Order for FY 2015-16 and FY 2016-17 will be passed-on to the Beneficiary while carrying out the Annual Revenue Requirement for subsequent year."

48. It was pointed out that the Hon'ble Commission in its True Up Order for FY 2017-18 has not considered the revenue gap from FY 2013-14 (6th Jan 2014 to 31st Mar 2014) to FY 2016-17 and hence the treatment of the gap is left out. The Petitioner humbly requests the Hon'ble Commission to define the method for treatment of Revenue Gap for the said period.

Commission's Observation and Finding

49. On going through the impugned order, it is evident that the said issue has been deliberated and discussed in this Commission's order dated June 12, 2023 in para 5.76 which reads as under:

"5.76 Further, the Commission is of the view that as the Petitioner has not filed the Petition in time, therefore, no carrying cost on the gap amount shall be allowed for the period of delay."

50. In view of the above, **Issue No- J**, 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

In the result, it is ordered as;

ORDER

51. In view of the above observation and findings, the details of expenses allowed in Tariff Order dated 12.06.2023 is being reviewed and accordingly revised as shown below:

S. No.	Particulars	Approved in Order dated 12.06.2023	Claimed in Review Petition for FY 2017-18	Allowed in review petition for FY 2017-18
a)	Employee Expense	35.59	65.84	-
b)	A&G Expense	7.29	27.97	-
c)	Depreciation	73.93	74.77	-
d)	Interest & Finance Charge	82.87	382.94	-
e)	Return on Equity	54.34	150.81	
f)	Incentive for Transmission system availability	-	7.50	1.37
g)	SLDC Expense	-	5.11	-
	TOTAL	254.02	714.94	1.37
Total ARR after review Order is Rs 255.39 Crore i.e. Rs (254.02+1.37) Cr.				

52. The review petition is disposed off accordingly.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson