

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

Case No. 04 of 2024

Tata Power Company Limited (TPCL)..... Petitioner
Versus
Tata Steel Limited (TSL)..... Respondent

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

For the Petitioner: Mr. Ashutosh Srivastava, Advocate, Mr. Kartikay Trivedi,
Advocate
For the Respondent: Mr. Manish Mishra, Advocate

Date – 20th December, 2024

1. The Petitioner-Tata Power Company Limited (TPCL) has filed the instant petition under clause A-41 of JSERC (Conduct of Business), Regulations, 2016, Section 94 (1) (f) of the Electricity Act 2003 for review of order passed by the Commission in case (Tariff) No. 18 of 2022 for true-up for FY 2021-22, Annual Performance Review for FY 2022-23 with respect to Unit-II & Unit-III (2*120 MW) of Jojobera Power plant.
2. Considering the submission of the petitioner and on the matter as facts available on record, the issues prayed for review have been discussed and dealt as hereunder: -
 - A. Computational Error for True-up of FY 2021-22 and APR of FY 2022-23.**
 - I. Non-consideration and non-inclusion of impact of correction of interest on loan for FY 2020-21.**

Submissions of the Petitioner

3. The Counsel for the petitioner has submitted that this Hon'ble Commission in the Impugned Order, inadvertently not considered the holistic impact of the corrected Interest on Loan (IoL) for FY 2019-20 revised by this Hon'ble Commission in the Order dated 09.01.2024 passed in the Review petition bearing case no. 18 of 2022.
4. Further, this Hon'ble Commission in the Impugned Order computed the IoL for FY 2021-22 by considering the opening loan as Rs 29.89 crores and Rs 29.81 Crores for Unit-II and Unit-III respectively. Therefore, evidently closing loan for FY 2020-21 ought to be Rs. 29.89 Crores and Rs. 29.81 Crores for Unit-II and Unit-III respectively.
5. The Counsel for the petitioner has further submitted that the closing loan as per the tariff Order dated 22.05.2023, have been considered as Rs. 27.19 Crores and Rs. 22.32 Crores for Unit-II and Unit-III respectively.

Therefore, evidently, this Hon'ble Commission has erred in not granting the holistic impact of the Order dated 09.01.2024 passed in Review Petition bearing Case No. 18 of 2022 as this Hon'ble Commission has not granted the differential IoL for FY 2020-21 arising on account of correction in opening/closing loan for FY 2020-21 to arrive at the Opening loan for FY 2021-22 for conducting the true-up for FY 2021-22.

6. Furthermore, the Counsel for the petitioner has submitted that the true-up Order for FY 2020-21 has been issued prior to the issuance of the Order in the Review Petition bearing Case No. 18 of 2022, the differential IoL ought to have been provided in the Impugned Order. The holistic consideration of the Order dated 09.01.2024 would require consequent revision in IoL for FY 2020-21, which ought to be separately allowed to the Petitioner vis-à-vis what has been allowed in True-up of FY 2020-21 for the Units-II & III.
7. Accordingly, the Counsel for the petitioner prayed to review the Impugned Order and allow the differential IoL for FY 2020-21 as per following table.

Particulars	Proposed Now	Approved in True-up Order for FY 2020-21	Proposed Now	Approved in True-up Order for FY 2020-21
	Unit 2		Unit 3	
Opening Loan*	29.89	27.84	22.96	19.56
Closing Debt #	29.89	27.19	29.81	22.33
Average Loan Balance	29.89	27.51	26.39	20.94
Computation of IoL				
Rate of Interest	13.02%	13.02%	12.33%	12.33%
Interest on Loan	3.89	3.58	3.25	2.58
Difference in Interest on Loan Claimed Now	0.31		0.67	

*Opening loan considered equal to closing loan for FY 20 as extracted above.

#Closing loan considered equal to opening loan for FY 22 as extracted above

Commission's Observation and findings

8. Upon scrutinizing and analyzing the material, information, and data on record, the Commission is of the view that the issue related to Interest on Loan has already been addressed and discussed in Case No. 18 of 2022, vide order dated 09.01.2024. The True-up Order for FY 2020-21 was subsequently passed on 22.05.2024; therefore, the impact of this issue has not been reflected in the True-up Order for FY 2020-21.
9. Furthermore, while passing the True-up Orders for FY 2021-22 and FY 2022-23, the Commission considered the closing value of FY 2019-20 as the opening value for FY 2020-21, the closing value of FY 2020-21 as the opening value for FY 2021-22, and so forth for each respective financial year.
10. Based on the above submission and finding the Commission observed that there is an inadvertent error in the computation of interest on loan for FY

2020-21 as such the Commission after prudent check has re-calculated the interest on loan and allow the review on the aforesaid issue as per the table below:

Particulars	Proposed Now	Approved in True-up Order for FY 2020-21	Approved Now	Proposed Now	Approved in True-up Order for FY 2020-21	Approved Now
	Unit 2			Unit 3		
Opening Loan*	29.89	27.84	29.89	22.96	19.56	22.96
Closing Debt #	29.89	27.19	29.89	29.81	22.33	29.81
Average Loan Balance	29.89	27.51	29.89	26.39	20.94	26.39
Computation of IoL						
Rate of Interest	13.02%	13.02%	13.02%	12.33%	12.33%	12.33%
Interest on Loan	3.89	3.58	3.89	3.25	2.58	3.25

II. Non-consideration of Capital Spare while conducting APR of FY 2022-23.

Submissions of the Petitioner

11. The counsel for the Petitioner has submitted that this Hon'ble Commission in the Impugned Order, while computing the Annual Fixed Cost (AFC) for FY 2022-23 at Table 98, inadvertently not considered the Capital Spare expenses allowed at Table 88 of the Impugned Order.
12. The counsel for the petitioner has further submitted that this Hon'ble Commission while approving the AFC of the FY 2022-23 has inadvertently considered the capital share expenses to be zero for the Unit -2 and Unit -3. However, it may be noted that this Hon'ble Commission at Table 88 of the Impugned Order, considered the Capital Spares to be Rs. 43 Lakhs for Unit-II, while conducting the APR for FY 2022-23.
13. Accordingly, the counsel for the petitioner has prayed to look this inadvertent error and may be pleased to kindly considered the capital share expenses as allowed at table 88 of the impugned order in the True-up proceeding in the case (T) 11 of 2023.

Commission's Observation and findings

14. Upon scrutinizing and analyzing the material, information, and data on record, the Commission observes that the said issue has already been addressed and deliberated in **Paragraph 5.78, Table 38, and Table 56 of**

Case (Tariff) No. 11 of 2023, dated June 06, 2024.

15. In light of the aforesaid findings and discussions, the Commission finds no new grounds or evidence to warrant a reconsideration. Accordingly, the petitioner's prayer for the review of **Issue No. A (II)** is hereby **rejected**.

B. Non-Consideration of claims made by the Petitioner.

I. Non-consideration of sharing of gains in R&M.

Submissions of the Petitioner

16. The Counsel for the petitioner has submitted that this Hon'ble Commission in the Impugned order, while conducting true-up for FY 2021-22, erred in not taking into the account the submission of the petitioner, which led to erroneous computation of R&M expanses for the FY 2021-22.
17. The counsel has further submitted that as per Regulation 6.15 of the Generation Tariff Regulations 2020, 50% of the gain on O&M expenses now has to be shared with the beneficiaries. The gain in O&M expenses in case of the petitioner Units II and Unit III has accrued mainly due to the outage of these Units are undertaken in alternate years, which leads to more O&M expenditure in one Unit (having annual shutdown) and lesser in the other (not having annual shutdown) during any financial year. In order to address the said issue, the petitioner had proposed a staggered R&M Expenses for each Unit in its MYT petition with R&M expenses being higher for a Unit in the year in which annual shutdown of that Unit is planned and vice-versa.
18. It was also submitted that too may get advanced or deferred as per beneficiary's requirement, thus, while one Unit may have sufficient normative expense budget in one year with no outage, leading to savings in that year, 50% of which would be passed on to the consumers.
19. Therefore, in order to correct this anomaly, the petitioner in the True-up petition for the purposes of sharing gains in O&M expense sharing under Regulation 6.15 of Generation Tariff Regulations 2020, proposed to invoke its '**Power to Relax**' and consider the O&M expenses for both the Units together and if the actual O&M expenses for both the Units are lower compared to approved, then the overall savings may be shared 50:50 with the consumers with half of 50% allocated to each Unit.
20. The petitioner has further submitted that this Commission without assigning any reason has inadvertently computed and approved the gain in O&M expenses for the FY 2021-22 by considering the gains in both the unit separately.
21. Accordingly, the counsel for the petitioner prayed to reconsidered the finding made in the impugned order and allow the deferential O&M saving as tabulated below:

Sharing of Savings	UoM	Unit 2 + Unit 3
Sharing of Savings in O&M Expenses Claimed @ Unit 2+Unit 3 (Taken Together) for FY 2021-22	Rs. Cr	2.15
Sharing of Savings in O&M Expenses approved @ Unit 2 and Unit 3 (individually) for FY 2021-22	Rs. Cr	4.79
Differential O&M Savings claimed now	Rs. Cr	2.64

Commission’s Observation and findings

22. The Commission has outlined clause 6.15 of JSERC (Terms & Condition of Determination of Generation Tariff) Regulations, 2020 for approval of sharing of gain/loss as reproduced below:

*“The financial gains on account of Operations and Maintenance Expenses for thermal and hydro **stations** shall be shared in the ratio of 50:50 between the **generating stations** and beneficiaries at the time of truing up.”.*

23. Upon analyzing the Regulation, the Commission interprets that it clearly stipulates that any financial gain from O&M expenses is to be shared with the beneficiaries of the **generating station** in a 50:50 ratios.

24. Upon review of the definition of "generating station" as per the relevant JSERC (Terms & Condition of Determination of Generation Tariff) Regulations, 2020 and the Electricity Act 2003, it appears that a **generating station** is defined in a generic manner, without specific reference to individual units. It is also pertinent to note that the Power Purchase Agreement (PPA) between the Petitioner and Tata Steel Limited is structured to encompass both units in a consolidated manner, with no distinction made under the PPA regarding Unit 2 and Unit 3.

25. In the present circumstances, it is observed that the petitioner, operating two units Unit 2 and Unit 3 schedules annual shutdowns in alternating years for each respective unit. Due to this bi-annual shutdown arrangement, the operating and maintenance (O&M) expenses for the unit not undergoing shutdown appear to be lesser than for the unit that is taken offline. Consequently, the Petitioner faces a dual financial impact: losses due to elevated O&M expenses for the non operational unit, and an obligation to share the apparent financial gains for the unit that remains operational.

26. After a careful analysis of the applicable regulations and the facts presented, it is observed that the Petitioner’s practice of conducting unit overhauls on a bi-annual basis yields savings in Repair and Maintenance (R&M) expenses for one unit each year. This approach reflects prudent maintenance standards and results in cost savings for end consumers. Accordingly, the Commission finds merit in the Petitioner’s submission.

27. Therefore, the Commission is of the view that nothing within the Regulations prevents the Petitioner from requesting a consolidation of O&M expenses for both units when calculating financial gains. This approach would safeguard the interests of both the generating station and the beneficiaries. Accordingly, under the current framework, the Commission considers it appropriate to consolidate Unit 2 and Unit 3 of the Petitioner's generating station for the purpose of computing financial gains on O&M expenses as computed hereunder.

Table 1 : Gain in Operation & Maintenance (Rs. Crore) as approved by the Commission.

Particulars	UoM	Unit-II		Unit-III	
		Petition	Approved Now	Petition	Approved Now
Normative O&M Expenses	Rs. Cr	44.10	46.06	42.56	44.37
Actual O&M Expenses	Rs. Cr	51.34	51.34	34.79	34.79
Gain/(Loss)	Rs. Cr	(7.24)	(5.28)	7.77	9.58
Consolidated Gain to be shared with Beneficiaries (50% of Gain)	Rs. Cr.	(-5.28+9.58)=4.31, (50% of 4.31=2.15)			
Gain to be shared with Beneficiaries (50:50)		1.08		1.08	

28. Accordingly, the Table no. 52, Table No. 55, Table No 56, Table No. 57, Table No. 58 of the true-up order dated January 09, 2024 have been modify as follows.

Table 52: Annual Revenue Requirement (Rs. Crore) as approved by the Commission

Particulars	Unit-II			Approved Now	Unit-III			Approved Now
	MYT	Petition	Approved on 09.01.20 24		MYT	Petition	Approved on 09.01.20 24	
ARR after Availability	324.54	278.31	279.80	279.80	329.06	305.31	308.87	308.87
Less: Discount as per [SHAKTI 2&3]	3.59	3.86	3.83	3.83	3.60	4.53	4.48	4.48
Less: Gain on Operational Parameters[25%]		0.36	0.97	0.97		0.96	1.60	1.60
Less: Gain on O&M Expense [50%]		0.13	0.00	1.08		0.13	4.79	1.08
Less: Non-Tariff Income		1.03	1.03	1.03		1.09	1.09	1.09
Add: Compensation due to Change in Law		6.90	0.00	0.00		9.79	0	0
Net ARR	320.95	279.83	273.97	272.90	325.47	308.39	296.91	300.62

Table 55: Gap/(Surplus) as approved by the Commission

Particulars	Unit-II			Unit-III		
	Petition	Approved on 09.01.2024	Approved Now	Petition	Approved on 09.01.2024	Approved Now
Net ARR	279.83	273.97	272.90	308.39	296.91	300.62
Revenue from Sale of Power	275.76	275.76	275.76	295.26	295.26	295.26
Gap/(Surplus)	4.07	(1.79)	(2.86)	13.12	1.64	5.36

Table 56: Carrying Cost for Unit-II as approved by the Commission (Rs. Crore)

Particulars	FY 2021-22 on dated 09.01.2024	Approved Now	FY 2022-23 on dated 09.01.2024	Approved Now
Opening Balance	0	0	(1.79)	(2.86)
Addition During the FY	(1.79)	(2.86)	0	0
Adjustment during the FY	0	0	0	0
Closing Balance	(1.79)	(2.86)	(1.79)	(2.86)
Interest Rate	11.65%	11.65%	10.50%	10.50%
Carrying Cost for respective FY	(0.10)	(0.17)	(0.19)	(0.30)

Table 57: Carrying Cost for Unit-III as approved by the Commission (Rs. Crore)

Particulars	FY 2021-22 on dated 09.01.2024	Approved Now	FY 2022-23 on dated 09.01.2024	Approved Now
Opening Balance	0	0	1.64	5.36
Addition During the FY	1.64	5.36	0	0
Adjustment during the FY	0	0	0	0
Closing Balance	1.64	5.36	1.64	5.36
Interest Rate	11.65%	11.65%	10.50%	10.50%
Carrying Cost for respective FY	0.10	0.31	0.17	0.56

Table 58: Carrying Cost on Revenue Gap/(Surplus) for Unit-II & Unit-III as approved by the Commission (In Rs. Cr.)

Particulars	Unit-II		Unit-III	
	FY 2021-22 on dated 09.01.2024	Approved Now	FY 2022-23 on dated 09.01.2024	Approved Now
Opening Gap/Surplus for FY 2021-22	-	-	-	-
Gap/(Surplus) addition during the FY 2021-22	(1.79)	(2.86)	1.64	5.36
Closing Gap/ (Surplus) for FY 2021-22	(1.79)	(2.86)	1.64	5.36
Carrying Cost of FY 2021-22	(0.10)	(0.17)	0.10	0.31
Carrying Cost of FY 2022-23	(0.19)	(0.30)	0.17	0.56
Net Gap/(Surplus)	(2.08)	(3.33)	1.91	6.23

II. Non-consideration of the effect of variation in Growth Factor on Employee Expenses.

Submissions of the Petitioner

29. The counsel for the petitioner has submitted that this Commission in the Impugned order, has inadvertently not provided any reason, while not considering the effect of variation in the Growth Factor on the Employee Expenses (as specified in the Generation Tariff Regulation 2020) while calculating the O&M expenses (Normative component) for the true-up of FY 2021-22.
30. The counsel for the petitioner has submitted that the petitioner in the MYT petition being Case No. 10 of 2020 filed for approval of the Multi Year Tariff for FY 2021-22 to FY 2025-26, considered the Growth factor of 1 for the purpose of projection of Employee Cost. However, considering the tighter norms to be met and stringent emission norms to be complied with and to rationalize already lean strength for improving reliability, additional manpower was required, out of which 6 was sanctioned in FY 2020-21 and 8 had been further added in FY 2021-22 for Units- I to IV of the Jojobera TPP. Accordingly, Growth Factor, G, specified in Generation Tariff Regulations was revised for two years as follows:

Particulars	Submitted for FY 21 and thereafter	Sanctioned Strength(submitted)	Actual as on 31.03.2021	Actual as on 31.03.2022
Management Cadre	136	136	142	150
Non- Management Cadre	43	43	43	43
Total	179	179	185	193
Increase			6	8
In % (G)			3.35%	4.32%

31. Counsel for the petitioner further submitted that this Commission had granted the petitioner liberty to file the growth factor based on actuals during the true-up process, as per the MYT Order dated 04.11.2022. Accordingly, the petitioner has revised the employee expenses for FY 2021-22 by incorporating the actual growth factor up to FY 2020-21, along with the cumulative growth factor up to FY 2022 for the subsequent years of the MYT period.
32. Furthermore, the counsel for the petitioner has submitted that this Commission even after acknowledging the facts in the MYT order that the growth factor shall be subject to true-up based on the actual number of employee and detailed justification by the petitioner, erred in inadvertently not considering the employee expenses computed by the petitioner in the present petition, without providing any cogent reason.
33. In light of the aforesaid, the counsel for the petitioner prayed to considered the inadvertent error in impugned order and to kindly acknowledge the

error apparent on the face of record and allow the claim of the petitioner with respect of the employee expenses for FY 2021-22 and FY 2022-23.

Commission's Observation and findings

34. The Commission has outlined the clause 15.42 (b) abbreviation of JSERC (Terms and condition of Determination of Generation Tariff), Regulations, 2020 for approval of growth factor as reproduced below:

*G_n – is a growth factor for the nth year and it can be greater than or lesser than zero based on the actual performance. Value of G_n shall be determined by the Commission in the MYT Order for meeting the additional manpower requirement based on the Generating Company Filing, benchmarking **and any other factor that the Commission feels appropriate;***

35. Further, the petitioner has not submitted any documentary evidence or proper justification for the increase in the number of employees given the same contracted capacity for power generation.
36. Furthermore, the Commission had approved normative employee expenses in line with the values approved in the MYT Order dated November 04, 2022.
37. Based on the above facts and submissions, the Commission **does not find it appropriate to increase** the normative employee expenses beyond the approved amount in the MYT Order dated November 04, 2022, without proper justification. Accordingly, the Commission had approved nil growth factor in tariff order dated January 09, 2024.
38. In light of the aforesaid findings and discussions, the Commission finds no new grounds or evidence to warrant a reconsideration. Accordingly, the petitioner's prayer for the review of **Issue No. B (II)** is hereby **rejected**.

In the result, it is ordered as:

ORDER

39. Accordingly, the review petition stands disposed off.

Sd/-
Member (Tech.)

Sd/-
Member (Law)