

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

**Case No. 25 of 2024**

Tata Steel Utilities and Infrastructure Services Limited..... Petitioner

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

For the Petitioner: Mr. Manish Mishra, Advocate

**Date – 20<sup>th</sup> December, 2024**

1. Tata Steel Utilities and Infrastructure Services Limited (TSUISL) 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 and order 47 of civil procedure code, 1908 for review of order passed by the Commission in case (Tariff) No. 09 of 2023 for true-up for FY 2022-23, Annual Performance Review for FY 2023-24 and Aggregate Revenue Requirement for FY 2024-25.
2. Considering the submission of the petitioner on the issues and on the basis of facts available on record, the issues prayed for review have been discussed and dealt as hereunder: -

**A. Treatment of capital contribution capitalized and its effect on Depreciation, Interest on Loan and Return on Equity for FY 2022-23.**

**Submissions of the Petitioner**

3. The Learned Counsel for the petitioner has submitted that it had filed a petition dated 22.11.2023 which was registered as case (Tariff) No. 09 of 2023 with respect to approval of True-up of FY 2022-23, Annual Performance Review for FY 2023-24 and Annual Revenue Requirement for FY 2024-25 which order was passed by the Hon'ble Commission on June 26, 2024.
4. It was further submitted that the Hon'ble Commission has deducted the consumer contribution (CC) received instead of Consumer contribution capitalized during the True-up for FY 2022-23 to determine the said part of Gross Fixed Assets (i.e. Value of GFA minus asset created out of consumer contribution) on which the normative RoE, Interest on Loan and Depreciation is allowed.
5. The Counsel for the petitioner has further submitted that once the Consumer Contribution is received by the licensee, the necessary expenditure is incurred by the licensee for extending the power supply to the prospective consumer. It is important to note that until the work is

completed and energized, the Consumer Contribution amount is not added to the Gross Fixed Asset (GFA) of the petitioner. The contribution is utilized only when the process of providing the individual power connection begins, and until then, it remains under Capital Work in Progress (CWIP). In some cases, the work may be delayed for extended periods due to various issues, such as Right of Way (RoW) challenges, the readiness of the customer's installation, or other complications, resulting in the CWIP remaining active for a longer duration.

6. It was further submitted that normative RoE, Interest on Loan and depreciation is not allowed on the CWIP; and therefore, reducing such part of consumer contribution (i.e. CWIP, which is not yet added into the GFA) from GFA: for allowing normative RoE, Interest on Loan and Depreciation warrants reconsideration of the Hon'ble Commission. Such consideration shall reduce the lawful return of the petitioner and shall deprive the petitioner from staking its legitimate claim on Return on Equity, Interest on Loan and Depreciation.
7. It was further submitted that normative Return on Equity (RoE), Interest on Loan, and Depreciation are not allowed on the CWIP. Therefore, excluding the portion of the Consumer Contribution (i.e., CWIP not yet added to the GFA) from the GFA for the purpose of allowing normative RoE, Interest on Loan, and Depreciation requires reconsideration by the Hon'ble Commission. Such an exclusion reduces the petitioner's lawful return and deprive it of its legitimate entitlement to claim RoE, Interest on Loan, and Depreciation.
8. The Counsel highlighted that the Consumer Contribution received amounted to Rs. 19.19 crore, while the Consumer Contribution capitalized was Rs. 10.49 crore for FY 2022-23. This disparity has led to a lower allowance of normative RoE, Interest on Loan, and Depreciation by Rs. 0.82 crore for FY 2022-23, as illustrated below: -

<b>Particulars</b>	<b>As Claimed in Petition (A) in Rs. Cr.</b>	<b>As allowed in Order dated June 26, 2024 in Rs Cr.</b>	<b>Less allowed (A-B) in Rs Cr.</b>
RoE (incl. Tax)	11.22	10.96	0.26
Interest on Loan	4.75	4.49	0.26
Depreciation	7.05	6.75	0.30
<b>Total</b>	<b>23.02</b>	<b>22.20</b>	<b>0.82</b>

9. The Counsel for the petitioner further submitted that treating the capital contribution received, instead of the capital contribution capitalized, during FY 2022-23 has adversely impacted the approvals for net depreciation, Interest on Loan, and Return on Equity. This treatment has resulted in a reduction of the petitioner's reasonable returns, normative interest, and depreciation claims.

10. The Counsel emphasized that the consumer contribution is not required to be deducted from the original cost of the project. In this context, it is pertinent to note that only completed and energized projects should be considered for this issue, as the work on other projects involving consumer contribution is still in progress, and their value is not yet reflected in the GFA. Only the completed projects, i.e., assets created from consumer contributions, are added to the GFA. Therefore, only the value of the assets created from consumer contributions (i.e., Consumer Contribution Capitalized) should be deducted from the GFA to determine the net GFA addition, excluding assets created through consumer contributions.
11. The Counsel for the petitioner further submitted that the purpose of reducing the assets created from consumer contributions is to exclude the portion funded by the consumer. However, there is often a time gap between when the consumer contribution is received and when the corresponding amount is added to the GFA. The petitioner reiterates that only after receiving the consumer contribution is the necessary expenditure incurred to extend the power supply to the prospective consumer. Until the work is completed and energized, the consumer contribution amount is not added to the Gross Fixed Asset (GFA) of the petitioner. During the interim period, once the work to provide an individual power connection begins, the corresponding consumer contribution is utilized to meet the expenditure and remains under Capital Work in Progress (CWIP) until the project is completed

### **Commission's Observation and findings**

12. The Commission has observed that the petitioner in true-up petition of FY 2022-23 had prayed to this Commission for consideration of Consumer Contribution on "capitalized basis" rather than on "received basis". The Commission has to encourage efficiency and economical use of resources as per Section 61(d) of the Electricity Act, 2003. Partial utilization of available consumer contribution cannot be allowed as the same will result in non-utilization of the funds available with the petitioner and burdening the consumers with financing costs through interest on loan (IoL) and return on equity (RoE). This issue is well settled and the Commission in previous tariff order has reiterated its view on this matter. Therefore, review sought by the petitioners again on the same issues does not satisfy the conditions for review of the impugned order as per Regulation A41 of the provision of JSERC (Conduct of Business), Regulations, 2016. Further, the Commission has also observed that the petitioners in true-up petition for FY 2018-19, FY 2019-20, FY 2020-21, and FY 2021-22 has not raised the issue of treatment of non-utilization of Consumer Contribution during the year in Non-Tariff Income.
13. Further, the Petitioner himself has acknowledged that consumer contributions are earmarked for specific works. In such cases, the Petitioner should have maintained separate accounts and provided complete data and details regarding the parking of unutilized funds and

their treatment, along with a policy for managing such funds.

14. The Commission firmly believes that any claim made by the petitioner must be substantiated with specific data. The Commission cannot accept generalized justifications for admitting claims that are not adequately supported by relevant data and records. This approach has been consistently adopted in all previous True-up Orders dated 29.09.2023, 24.11.2022, 29.09.2020, which have attained finality. Accordingly, the Commission decides not to reopen settled issues in the present Review Order.
15. Furthermore, the petitioner has sought the review on the grounds of error apparent. In this regard, the Commission is of view that the error apparent means any computational error on the face of record. While in this issue, it is a matter of methodology adopted by the Commission. The error apparent does not apply to the methodology or principles adopted while issuing the Order.
16. As there is no error apparent, clerical or arithmetical mistake on the face of record in issue (A), as raised by the petitioners, hence the said issue does not warrant any intervention through a review process, and as such, it is hereby dismissed.

**ORDER**

17. The review petition stands disposed off with the above observations.

Sd/-  
Member (Tech.)

Sd/-  
Member (Law)