

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

**Misc. Case No. 02 of 2022**

Inland Power Limited (IPL) ..... Petitioner

Versus

1. Jharkhand Urja Vikas Nigam Limited  
2. Jharkhand Bijli Vitran Nigam Limited ..... Respondents

**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: Ms. Ritu Apurva, Advocate and Mr. Anand Bardia (CFO)-IPL

**Date – 28<sup>th</sup> February, 2023**

1. The instant case has been filed by the Petitioner- Inland Power Limited (hereinafter referred to as 'IPL' or 'Petitioner') pursuant to the order dated 16.09.2022 passed by Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as 'APTEL') in Appeal No. 411 of 2019 filed against order dated 22.10.2019 passed by the Commission in Case No. 09 of 2017, with respect to the truing up exercise of the financials of the Petitioner for FY 2014-15 by the Commission.

2. The petitioner quoted the relevant extract of the order dated 16.09.2022 passed by the Hon'ble APTEL in Appeal No. 411 of 2019 as under:

*“The main appeal is directed against order dated 22.10.2019 of Jharkhand State Electricity Regulatory Commission (the State Commission) statedly misconstruing an order if this Tribunal putting in position certain interim arrangement. Meanwhile, Appeal No. 209 of 2019 titled Inland Power Ltd. Vs. Jharkhand State Electricity Regullatory Commission & Anr. has been decided by this Tribunal by judgment dated 04.07.2022. In these circumstances, the State Commission is inclined to revisit the issues covered by the order impugned in the appeal at hand bearing in mind the dispensation by judgment dated 04.07.2022. Thus, with the consent of the appellant and the State Commission, we dispose of this appeal with a direction that the State Commission shall reconsider the issues involved in the impugned order and pass a fresh order in accordance with law bearing in mind the decision of this Tribunal in Appeal No. 209 of 2019. Needless to add the Commission will be duty bound to hear all parties. The appeal and the pending applications are disposed of in above terms.”*

3. The petitioner submitted that the Commission in order dated 22.10.2019 had limited the recovery of fixed cost to Rs. 62.36 Crore being 88% of the approved fixed cost of Rs. 70.86 Crore, on the basis of an Interim Order dated 17.07.2019 passed by the Hon'ble Appellate Tribunal in Appeal No. 209 of 2019. The relevant extract of interim order dated 17.07.2019 passed by Hon'ble Appellate Tribunal reads as under is as follows:

*“We have gone through the MoU, supplementary Power Purchase Agreement (PPA) and also tariff orders for the years from 2014-2015 to 2016-2017. We have gone through the impugned order as well and the contentions raised by the Appellant.*

*We stay the operation of paragraph 25 of the impugned order and make it clear that the power generated from Unit-1 of the 63 MW will be in terms of principal PPA, i.e. weighted average of 12% power procured at variable cost and 88% of power procured at the tariff approved by the Commission.”*

4. It was submitted that the purpose of the Hon'ble Appellate Tribunal in the above interim order was to protect the position that had continued earlier, i.e. the Petitioner would supply 12% of the power at variable cost, and would recover the entire fixed charges in the supply of the balance 88% of the capacity to the licensee and the object was not to reduce the recovery of fixed cost from 100% to 88%.
5. It was submitted that the Hon'ble Appellate Tribunal has now settled the position that the Petitioner is entitled to recover the full fixed charges from the 88% of the capacity, whereas the remaining 12% capacity shall be supplied at variable cost and the fixed cost has to be recovered to the full extent of 100%.
6. It was also submitted that the principle adopted in the tariff Order dated 27.05.2014 and 16.05.2017 needs to be adopted, namely that the 12% of the power is to be supplied at variable cost, whereas the full fixed charges of the Petitioner is to be recovered from the balance 88% being supplied to the Respondent licensee.
7. It was pointed out that this Commission has already determined the fixed charges of the Petitioner for the year 2014-15 at Rs. 70.86 crores and there is no dispute to such determination. Consequently, the recovery of the fixed charges, which was previously reduced to 88% at Rs. 62.36 crores, now needs to be restored to full fixed charges of Rs. 70.86 crores.

8. It is further submitted that due to the delayed recovery of 12% fixed charges of Rs. 8.5 crores, the said delay needs to be compensated to the Petitioner by way of carrying cost, applying the well settled principles of restitution and carrying cost for delayed recovery of revenue requirements.
9. It was prayed that the Petitioner is entitled to the arrears for revenue requirements of Rs. 8.5 crores together with carrying cost thereon.

**Commission's observation and findings**

10. The Commission considered the submissions made by the petitioner and perused the materials available on records.
11. The Commission observed that the instant Petition filed by the Petitioner is limited to the recovery of 100% of its full fixed charges in light of Hon'ble Appellate Tribunal order dated 16.09.2022 in Appeal No. 411 of 2019 and order dated 04.07.2022 in Appeal no. 209 of 2019.
12. The Commission vide its order dated 22.10.2022 had approved the recovery of fixed charge as 88% of approved value based on the interim order of Hon'ble Appellate Tribunal dated 17.07.2019 in Case No. 209 of 2019. However, the Hon'ble Appellate Tribunal vide its judgement dated 16.09.2022 while disposing the Appeal No. 411 of 2019 has directed the State Commission to revisit the issues covered by the order impugned in the appeal bearing in mind the dispensation by judgment dated 04.07.2022 and pass a fresh order in accordance with law taking into consideration the decision of the Tribunal in Appeal No. 209 of 2019.
13. The Commission has examined the material details produced before the Commission along with final order dated 04.07.2022 passed by Hon'ble Appellate Tribunal. In view of the observation of the Hon'ble Appellate Tribunal, the Commission is of the view that the IPL is entitled to recover full fixed charge instead of 88%.
14. Thus, the revised Table 31 of Order dated 22.10.2019 in Case No. 09 of 2017 is rectified and modified as follows:

**Revised Table 31: Total cost recoverable by the Petitioner for FY 2014-15**

<b>Particulars</b>	<b>Units</b>	<b>Approved in True-up</b>	<b>Approved in Order dated 22.10.2019</b>	<b>Approved in this Order</b>
Fixed Cost after PAF Adjustment	Rs. Cr.	66.78	70.86	70.86
Fixed cost recoverable (considering 88% recovery)	Rs. Cr.	66.78	62.36	-
Total Variable cost	Rs. Cr.	71.69	71.69	71.69
Annual Revenue Requirement (ARR)	Rs. Cr.	138.48	134.05	142.55

15. The Commission approves the carrying cost as per Clause 6.17 of the JSERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, as shown in the table below:

**Gap including Carrying Cost for FY 2014-15**

<b>Particulars</b>	<b>Units</b>	<b>FY 2014-15</b>
Annual Revenue Requirement	Rs. Cr.	142.55
Revenue from Operations	Rs. Cr.	141.43
Gap/(Surplus) for FY 2014-15	Rs. Cr.	1.12
Carrying Cost for FY 2014-15	Rs. Cr.	0.08
Carrying Cost for FY 2015-16	Rs. Cr.	0.17
Carrying Cost for FY 2016-17	Rs. Cr.	0.14
Carrying Cost for FY 2017-18	Rs. Cr.	0.14
Carrying Cost for FY 2018-19	Rs. Cr.	0.14
Carrying Cost for FY 2019-20	Rs. Cr.	0.14
Carrying Cost for FY 2020-21	Rs. Cr.	0.13
Carrying Cost for FY 2021-22	Rs. Cr.	0.12
Carrying Cost for FY 2022-23	Rs. Cr.	0.12
<b>Total Amount to be Recovered</b>	<b>Rs. Cr.</b>	<b>2.30</b>

16. The Commission directs the Petitioner to adjust the approved gap with its Beneficiary as per Clause 6.18 of the JSERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015.

**ORDER**

17. In the given facts and circumstances and in view of the discussion made herein above, the prayer of the Petitioner is allowed and the Commission approves 100% recovery of fixed charges in light of the order dated 16.09.2022 passed by Hon'ble Appellate Tribunal in Appeal No. 411 of 2019.
18. The petition stands disposed off, accordingly.

Sd/-  
Member (T)

Sd/-  
Member (L)

Sd/-  
Chairperson