

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 10th December, 2015

Present:

Shri M.K. Shankaralinge Gowda	-	Chairman
Shri H.D. Arun Kumar	-	Member
Shri D.B. Manival Raju	-	Member

Review Petition No.6 / 2013

BETWEEN:

Bangalore Electricity Supply Company Limited,
K.R. Circle
BENGALURU – 560 001

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PETITIONER

[Represented by Just Law Advocates]

AND

Nil

..

RESPONDENT

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ORDERS

1. The Bangalore Electricity Supply Company Ltd., (BESCOM), hereinafter referred to as 'Petitioner' has filed this Review Petition and has sought review of the order (Tariff Order 2013) of this Commission on the Annual Performance Review of BESCOM for FY12, approval of ARR for the Control period FY14 to FY16 and Retail Supply Tariff for FY14 dated 6th May, 2013. The Petitioner has sought review of the decisions taken by the Commission in respect of the following:

a) Inflation rate adopted in computation of O & M Expenses;

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- b) Providing for Bad Debts considering the provisions of Bad Debts;
- c) Computation of Return on Equity without considering the injection of funds by the Government of Karnataka (GoK) during the financial year;
- d) Computation of other Income by including the amount of subsidy received from the GoK; and
- e) Non-inclusion of Regulatory Asset of Rs.12.58 Crores of the previous years, in the APR of FY12.

2. The petitioner has made detailed submission on the above, as follows:

(i) Operation & Maintenance Expenses (O & M):

It is submitted that this Commission in its Order dated 06.05.2013 had considered inflation rate as per CERC Notification dated 25.09.2012 in which the CPI and WPI are considered in the ratio of 55% and 45%, respectively in computation of O & M expenses in approving the APR for FY12. However the Commission, as a matter of policy, has been considering a ratio of 70 : 30 for CPI and WPI, respectively as is evident in its Tariff Order of 2008. While considering the CERC norms in Tariff Order 2013, the Commission has not considered the request made by the BESCOM in its tariff filing dated 10.12.2012. The Commission had considered inflation rate of 5.49% as against inflation rate of 5.63% as calculated as per the methodology adopted by it in its Tariff Order of 2008.

It is also submitted that for estimation of consumers growth, the Commission has considered 5 year CAGR as against BESCOM's request to consider 4 year CAGR. The CAGR derived by the Commission does not reflect the actual rate of growth. Based on the inflation rate at 5.63% and growth rate of 4.96%, the O & M expenses should have been allowed at Rs.830.98 Crores as against approved figures of Rs.730.84 Crores.

It is also submitted that the methodology adopted by the Commission in Tariff order of 2008 has been affirmed by the Hon'ble ATE in its order dated 9.10.2009 in Appeal No. 15 and other Interim Appeals of 2008, wherein the ESCOMs were directed to approach the Commission by submitting O & M formula as required under MYT Regulations. It is

therefore submitted that the said formula ought to have been adopted by the Commission. It is submitted that, however, the Commission has erroneously adopted CPI & WPI as per the CERC Regulations as against the earlier practice followed by the Commission. Hence, there is an error apparent on the face of the record and the same deserves to be reviewed.

(ii) Bad Debts:

The Commission has, in its earlier order, allowed Bad and Doubtful Debts based on the actuals. However, the Commission in Tariff Order 2013 has considered net allowable other debits of Rs.(-)22.65 Crores. The negative figures as indicated in the accounts are due to withdrawal of excess provisions made in the previous years. By considering negative figures, the Commission has deviated from the earlier practice of allowing the actual bad debts. The Commission should allow actual bad debts of Rs.29.92 Crores without considering the provision for bad debts.

(iii) Return on Equity:

It is submitted that the Commission has not taken into consideration equity at Rs.314.38 Crores for FY12, which includes the subsidy received by the petitioner from the Government of Karnataka. Instead the Commission has considered only Rs.153.73 Crores being the opening balance of equity for the year. The Commission has failed to take into account the injection of funds by the Government of Karnataka amounting to Rs.430.96 Crores for the period between 2009-10 to 2011-12, which were converted into share capital during FY12. An amount of Rs.547.91 Crores of share capital and Rs.118.14 Crores of surplus used as internal resources during FY12 is eligible to be considered for computation of Return on Equity.

(iv) Other Income:

It is submitted that the other income as per petitioner's filing includes Rs.10.93 Crores received from the Government of Karnataka towards subsidy. This amount was yet to be re-classified to the appropriate head of accounts. These are dues from the

Government of Karnataka and the same is to be set off to the debit heads in future and cannot be treated as Other Income. Hence, the petitioner has submitted that an amount of Rs.10.93 Crores be omitted from Other Income of Rs.191.28 Crores. Since, other income is a factor which shall be deducted from the Annual Revenue Requirement, considering Rs.10.93 Crores under this head, has resulted in reduction of Annual Revenue Requirement to that extent. The same being an error apparent on the fact of record, deserves to be reviewed.

(v) Regulatory Asset:

The Commission in its order in OP NO. 8 / 2009 dated 11.12.2009 had directed that the additional power purchase cost of Rs.37.74 Crores shall be passed on to the consumers in equal proportion of Rs.12.58 Crores during the years FY11 to FY13. In the truing up exercise for FY12 the Commission has omitted to include this Regulatory Asset amounting to Rs.12.58 Crores.

(vi) Revenue & Subsidy:

The Commission in its Tariff Order 2013 has considered revenue for FY12 from sale of energy at Rs.9327.09 Crores (including subsidy from GoK), by considering the Commission Determined Tariff (CDT) for BJ/KJ at Rs.4.75 per unit and Rs.1.21 per unit for IP installations as against the actual revenue of Rs.9405.38 Crores (including subsidy from GoK). The actual CDT was Rs.5.04 and Rs.1.21 from 01.04.2011 to 30.11.2011 to BJ/KJ and IP installations as per Tariff Order 2011 dated 28.10.2011 and Rs.4.43 to BJ/KJ and Rs.1.41 to IP installations from 01.12.2011 to 31.03.2012 as per Tariff Order 2011 dated 07.12.2010. The Commission has approved additional subsidy of Rs.66.74 Crores as payable by the GOK, as against the actual additional subsidy requirement of Rs.132.24 Crores.

3. With the above submissions, the petitioner has prayed to:

(1) Allow O & M cost of Rs.830.98 Crores as against the approved figures of Rs.730.84 Crores.

- (2) Consider "Other Debits" of Rs.29.92 Crores as per actual incidence of the same, without considering the provision for bad debts.
 - (3) Allow for Return on Equity of Rs.48.73 Crores for FY12.
 - (4) Provide for Other Income of Rs.180.35 Crores by omitting Rs.10.93 Crores from Rs.191.28 Crores.
 - (5) Allow for Regulatory Asset of Rs.12.58 Crores as pass through for the year FY12.
 - (6) Make provision for payment of subsidy from Government of Karnataka of Rs.132.24 Crores as against Rs.66.74 Crores.
 - (7) Pass such other orders as the Commission may deem fit in the facts and circumstances of the case, in the interest of justice.
4. We have heard the learned counsel for the petitioner. We have carefully considered the submissions made by the petitioner and proceed to address and decide on the issues raised as follows:

(1) O&M Expenses:-

The Commission in its Tariff Order 2011 dated 28.10.2011, while approving the ARR for FY12, had allowed O&M Expenses of Rs.725.60 Crores as against the BESCO's proposal for Rs.650.88 Crores. While determining the O&M Expenses, the Commission has considered Consumer Growth Index (CGI) based on 3 year CAGR using the actuals of FY10 for FY12 and inflation rate of 5.09% as determined by the CERC.

In the same Tariff Order, while approving the APR of the BESCO for FY-11, the CGI based on 3 year CAGR using actuals for FY08 - FY10 has been considered. The inflation rate of 5.09% is considered with CPI and WPI in the ratio of 70 : 30 as per the CERC Notification.

While considering the O&M expenses for FY12, the Commission had assessed the consumer's growth rate over a period of 3-5 years and adopted the 3 year CAGR rate which was considered reasonable.

The methodology followed for the year FY11 and FY12 has been retained even for FY13 as well. Thus the Commission has consistently adopted the CAGR of 3 years for the Control Period FY11 to FY13 without any deviation. The contention that the Commission has adopted 5 year CAGR, while approving the APR for FY12 as against the petitioner's proposal of 4 years CAGR, is found not correct as revealed by the reading of the Tariff Order 2013.

In the Tariff Order 2011, while approving APR of BESCOM for FY11, the operation and maintenance expenses are computed by considering the CGI based on 3 year CAGR using actuals for FY08 – 10 and the inflation rate of 5.09% with CPI and WPI in the ratio of 70:30.

The Commission in its Tariff Order 2013 dated 06.05.2013, while approving the APR of BESCOM for FY12 has considered the inflation rate of 5.49% as per CERC Notification dated 25.09.2012 in computation of O & M expenses. We note that, while computing the O & M expenditure in approval of APR for FY11 and ARR for FY11-13, the inflation rate has been considered as per the Notification issued by CERC from time to time with CPI and WPI in the ratio of 70:30. We therefore find merit in the Petitioner's prayer for review of Tariff Order 2013 in respect of this issue. Accordingly, the FY12 being in the same Control Period FY11 to FY13, the Commission decides to adopt the ratio of 70 : 30 for approval of APR of FY12. Considering the CPI & WPI in the ratio of 70 : 30, the inflation rate works out to 5.63% for FY12. Taking the inflation rate at 5.63% and CGI based on 3 year CAGR of 4.47%, the allowable O & M expenditure works out to Rs.731.64 Crores for FY12. **Thus the Commission while accepting in part the petitioner's prayer for review of O & M expenses allowed, decides to allow an additional amount of Rs.0.80 Crores as O & M expenses for FY12.**

(2) Other Debits:

The Petitioner in its application for approval of APR for FY12, had claimed an amount of Rs.29.92 Crores towards Other Debits. In the Tariff Order 2013, while approving its APR for FY12, the Commission has allowed an amount of Rs.(-) 22.65

Crores towards other debits after duly considering the negative provision of Rs.80.19 Crores for bad and doubtful debts as well as other items.

We note that any positive provision being made by an ESCOM towards bad and doubtful debts is not being allowed in the determination of ARR/APR. Hence the negative provision of Rs.80.19 Crores along with the other items should not have been considered in approving the APR for FY12. The petitioner's prayer on this issue is liable to be allowed. Accordingly, without considering the provisions for bad debts and other items as per the audited accounts, the revised amount of other debits, that could be allowed in the APR of FY12, is worked out as under:

Revised Other Debits for FY12

Sl.No.	Particulars	Amt. in Rs.Crs
a	M.C. variances	17.29
b	Bad debts written off	0.15
c	Loss of Material by pilferage	0.07
d	Computer rentals/ Maintenance Charges	0.48
e	Loss/ gain relating to fixed assets	4.45
f	Improvement of assets	25.25
Net allowable other debits		47.69

Thus we decide to allow an amount of Rs.47.69 Crores as other debits in APR for FY12.

(3) Return on Equity (ROE):

The Petitioner in its application for approval of APR for FY12 had claimed ROE of Rs.60.92 Crores on net equity of Rs.314.38 Crores by considering the Paid Up Share capital of Rs.205.95 Crores, Share Deposits of Rs.340.97 Crores and Reserves and Surplus of Rs.(-)232.54 Crores.

However, the Commission in its Tariff Order dated 06.05.2013, has allowed the ROE of Rs.23.83 Crores on net equity of Rs.153.73 Crores by considering the following while approving the APR for FY12.

Rs. In Crores	
Paid up share capital	205.95
Share Deposits	295.46
Reserves and Surplus	-350.68
Total Equity amount	153.73
RoE	23.83

The Petitioner has computed the closing balance of Paid Up Share Capital, Share Deposit and Reserves and Surplus as at the end of March 2012 by including the equity infused during the year by GOK and surplus earned during the year. As the Commission in its previous and subsequent Tariff Orders has considered the balance of equity as at the beginning of the financial year for the reason that the capital (equity) that exists at the beginning of the year gets reinvested in the business during that year and therefore the return on equity should be allowed on the balance of equity at the beginning of the year. The balance of equity and surplus earned or the loss incurred by a Company during the year will be known only at the end of the year on preparation of Profit & Loss Account and Balance Sheet of the Company and the same is reckoned for computing the return on Equity for the next year.

As the accounts of the petitioner for FY12 have been prepared with a substantial delay after the receipt of Statutory Auditor's clarification dated 16.10.2012 and C&AG's clearance letter dated 22.10.2012, the profit/ loss earned/ incurred by the petitioner Company, as the end of the financial year cannot be used for the same year but would be useful for the next financial year.

Therefore, we hold that ROE calculated on the amount of Equity as at the beginning of the year by the Commission while approving the petitioner's APR for FY12 is in order, The petitioner's prayer on this issue is rejected.

(4) Other Income:

The petitioner in its application for approval of APR for FY12 had claimed an amount of Rs.107.35 Crores as other income as against the actual amount of Rs.265.07 Crores as per Audited Accounts.

The Commission in its Tariff Order 2013, while approving the APR of the petitioner for FY12, has considered an amount of Rs.191.28 Crores as other income for FY12 by excluding depreciation on assets created out of consumer contribution / grants. We note that such amount includes subsidy for the previous year of Rs.10.93 Crores received from GoK during FY12. We agree with the petitioner's contention that this should not have been reckoned as other income for the year and it needs to be deducted from the amount of other income considered in the APR.

We therefore hold that for the purpose of APR for FY12 the petitioner's other income to be Rs.180.35 Crores.

(5) Regulatory Assets:

Petitioner in its application for approval of APR for FY12, had claimed an amount of Rs.12.58 Crores being the Power Purchase cost, as per the decision in OP No. 8/2009 dated 11.12.2009. We note that inadvertently, the same has not been considered while approving the APR for FY12. **We therefore, allow the petitioner's prayer for considering such amount of Rs.12.58 Crores for the purpose of approval of APR for FY12.**

(6) Revenue and Subsidy:

The petitioner in its application for approval of APR for FY12, had considered revenue from sale of power at Rs.9405.38 Crores factoring in revenue subsidy of Rs.739.93 Crores from the GoK towards Irrigation Pump Sets and BJ/KJ installations and Rs.8665.45 Crores from other categories of consumers. Whereas, while

approving the petitioner's APR for FY12, the Commission has considered total revenue of Rs.9327.09 Crores, comprising of subsidy of Rs.673.83 Crores from the GOK towards power supply to IP Sets and BJ/KJ installations and revenue of Rs.8653.26 Crores from other categories of consumers. Further, the petitioner was allowed to carry forward the deficit of Rs.82.94 Crores for the ARR of FY14, after approving an additional subsidy of Rs.66.74 Crores, as payable by the GOK to the petitioner towards power supply to IP sets & BJ/KJ installations.

We note that the petitioner's claim that the additional subsidy payable by the GoK should have been considered at Rs.132.84 Crores after adopting the correct CDT, as against Rs.66.74 Crores, is valid. We, therefore decide to allow the petitioner's prayer on this issue.

5. As we have allowed some of the prayers of the petitioner in part and full as discussed above, the ARR allowed after APR for FY12 requires to be revised appropriately. Apart from the specific reliefs allowed based on the petitioners claims, the petitioner is also eligible for consequential relief by way of interest on working capital to an extent of Rs.0.76 Crores in addition to be amount allowed in APR, due to revision of the O & M expenses.
6. For the foregoing reasons, we pass the following:

ORDER

- (a) The Annual Revenue Requirement as approved in APR for FY12, is revised as detailed below:

REVISED APPROVED ARR FOR FY 12 – BESCOM

Sl. No.	Particulars	FY12			Approved APR as per Order dated 06.05.2013	Revised APR as per this order
		Approved ARR as per Order 28.10.2011	As per Original filing for APR	Actual as per Audited Accounts		
1	Power Purchase in MU	26689.64	25658	25657.71	25657.71	25657.71
2	Transmission Loss in MU	1062.25	1074	1073.41	1073.41	1073.41
3	% Transmission Loss	3.98	4.18	4.18	4.18	4.18
4	Energy Available at interface point (MU)	25627.39	24584	24584.30	24584.30	24584.30
5	Sale of Power (MU)	21911.42	21029.91	21029.95	21029.95	21029.95
6	Distribution Loss %	14.50	14.46	14.46	14.46	14.46
7	Average Cost of Supply (in Rs per Unit)	4.75	4.62	4.42	4.47	4.52
	Revenue- Rs. Crores					
8	Revenue from tariffs & Misc. Charges				8653.26	8665.45
9	Revenue Subsidy from Govt.				673.83	739.93
	Total				9327.09	9405.38
	Expenditure- Rs. Crores					
	Power purchase cost	8195.43	7729.95	7581.75	7515.31	7515.31
	Transmission charges of KPTCL	751.99	829.80	970.22	970.22	970.22
	SLDC Charges	5.24		7.78	7.78	7.78
11	Total Power Purchase charges Rs.Crores	8952.66	8559.75	8559.75	8493.31	8493.31
12	R&M Expenses		32.46	32.46		
13	Employee Expenses		690.66	651.63		
14	A&G Expenses	725.60	80.46	83.28	730.84	731.64
15	Depreciation	196.40	124.59	198.39	124.59	124.59
	Interest & Finance Charges					
16	Interest on Loan Capital	114.94	68.12	88.02	88.02	88.02
17	Interest on Working Capital	213.79	212.73	104.23	149.45	150.21
18	Interest on Consumer Deposits	109.22	105.87	105.87	105.87	105.87
19	Interest on belated payment of power purchase cost	0.00	3.52	3.52	0.00	0.00
20	Other Interest & Finance Charges	4.23	7.23	5.79	5.78	5.78

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21	Less: Interest capitalised	0.00	-61.69	-61.69	-61.69	-61.69
22	Less: other expenses capitalised	0.00	-6.36	-6.36	-6.36	-6.36
23	Other Debits		29.92	-10.46	-22.65	47.69
24	Net prior period Debit /Credit	0.00	-102.18	-208.18	-35.74	-35.74
25	Power purchase cost as per decision in OP No.8/2009 dated 11.12.2009	12.58	12.58	0	0.00	12.58
	Total –Expenditure Rs. Crores	10329.42	9757.66	9546.25	9571.42	9655.90
26	ROE	28.06	60.92	0	23.83	23.83
27	Other Income	173.68	107.35	265.07	191.28	-180.35
28	Provision for taxes	0.00	0.00	6.06	6.06	6.06
29	Fund towards Consumer Relations / Consumer Education	1.00	0.00	0.00	0.00	0.00
	NET ARR – Rs. Crores	10184.80	9711.23	9287.24	9410.03	9505.44
31	Deficit for FY12 – Rs. Crores				-82.94	-100.06
	Difference in deficit to be carried forward to FY17 (Rs.100.06 -82.94) Rs. Crores					17.12
	Additional subsidy payable by GOK on account of revised APR for FY12 – Rs. Crores					66.10

As indicated in the above Table, the revised gap for FY12 is Rs.100.06 Crores. As per the revised ARR of APR for FY12, the balance of additional subsidy payable by the GOK for FY12 works out to Rs.66.10 Crores. Further, the uncovered gap of Rs.17.12 Crores for FY12 shall be carried forward to the ARR of FY17.

The Review Petition is accordingly disposed of.

Sd/-
(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-
(H.D. ARUN KUMAR)
MEMBER

Sd/-
(D.B. MANIVAL RAJU)
MEMBER