N/56/14

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION, BENGALURU

Dated : 7th January, 2016

Present:

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

Review Petition No.5 / 2014

BETWEEN :

Bangalore Electricity Supply Company Limited,
K. R. Circle,
Bengaluru- 560 001 .. **PETITIONER**

[Represented by Thiru & Thiru, Advocates]

AND

Nil .. **RESPONDENT**

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In the matter of review of the orders of this Commission dated 12.05.2014, on the Annual Performance Review of BESCOM for FY13.

ORDERS

1. The Bangalore Electricity Supply Company Limited (BESCOM), herein after, referred to as 'Petitioner' has filed this Review Petition seeking review of the orders of this Commission dated 12.05.2014, on the Annual Performance Review for FY13 and approval of the Annual Revenue Requirement (ARR) and the Retail Supply Tariff for FY15. The Petitioner has sought review of the decisions of the following:

a) Regulatory Asset
b) Operation and Maintenance Expenses;
c) Interest on Working Capital;
d) Return on Equity;

2. The petitioner has made detailed submissions on each of the above claims which may stated as under:

a) Regulatory Asset

It is submitted that the Commission, in its Order dated 28.10.2011, had trued up the accounts of FY11and approved Rs.313.03 Crores as deficit. And out of this amount of Rs.91 Crores, was treated as Regulatory Asset, to be carried forward to the APR of the FY13 and the same has missed the attention of the Commission as could be seen from the Table-4.26 of the impugned Order**.** The petitioner accordingly, has requested to allow the same as a pass through in the Tariff Order for the FY15.

b) O & M Expenses:

It is submitted that the Commission has followed the methodology specified in the MYT Regulations to arrive at O & M expenses of the petitioner. But the rate of inflation of 5.93% considered for the FY13, is erroneous for the reason that the same is declared by the CERC for transmission Companies and not applicable to distribution Companies. The actual ratio of CPI : WPI is 81:19 whereas the ratio of 55:45 has been adopted erroneously by the Commission. If a ratio of 70: 30 is adopted as per Tariff Order of 2008, the inflation rate would be 6.16%. It is also submitted that the inflation rate of 5.93% has been notified by the CERC for the calendar year 2013 but the Commission has considered the same for the FY13. The petitioner has furnished the year on year figures of employee cost and O & M expenses from FY08 to FY12 to indicate the increase in ratio of employee cost to other O & M costs and has requested the Commission to consider CPI and WPI at 70 : 30 ratio to compute the inflation rate. It is also requested to consider 3 year CAGR for assessing the consumer growth, at the rate of 4.95%. Thus the petitioner has prayed for allowing the O & M expenses of Rs. 900.05 Crores as against an approved amount of Rs.871.34 Crores.

The Petitioner further submits that the BESCOM is a company owned by the State Government and the employee's pay and allowances are being regulated as per Government Orders and on account of the revised house rent allowance, an expenditure of Rs.11.80 Crores has been additionally incurred. Further, it is submitted that the petitioner, while complying with the directive of the Commission to equip the service centres adequately to address the consumers' complaints, has incurred an additional expenditure of Rs.35.49 Crores. That the above additional expenditure amounting to Rs.47.29 Crores were included in the filing and the same has escaped the attention of the Commission. Therefore, the total O & M expenses of Rs.947.34 Crores (Rs.900.05 + Rs.47.29) need are to be considered as a pass through.

c) Interest on Working Capital:

It is submitted that while determining the Interest on the Working Capital (WC), the Commission has not considered the provisions of the MYT which provide for allowing the WC interest at the prime lending rate of 14.75%, as against 11.75% considered by the Commission. It is further submitted that it has borrowed short term loans at 12.75% p.a from the REC and, therefore, the Commission's decision to consider WC interest rate of 11.75% results in loss to the petitioner. The Petitioner has requested to allow an additional amount of Rs.28.69 Cores.

d) Return on Equity (RoE):

It is submitted that the Commission has not considered the closing balance of equity of the FY13 for computing the RoE. It is submitted that the average equity should have been considered and that the loss has been deducted from the equity for the purpose of arriving at the equity amount. It is further submitted that the Commission had only considered the opening equity at the beginning of the year without considering the equity infusion of Rs.37.50 Crores from the Government. The RBI guidelines also specify to consider average capital employed during a financial year to compute the RoE. The petitioner, on the issue of deducting the loss from the equity, has submitted that the Commission, after truing up of the ARR, carries forward the loss to the subsequent year and while truing up for the FY09, the Commission, had approved additional subsidy of Rs.626 Crores with directions to be paid in 36 installments. Such being the case, the accounts for the FY09 are to be readjusted duly passing necessary adjustment entries in the accounts. It is submitted that while the profit during a year increases the equity, and the same principle cannot be applied if losses are incurred as there will be erosion of equity. Further the Petitioner has submitted that against a gap of Rs.1151.65 Crores for the FY13, Rs.524.53 Crores is treated as additional subsidy from the Government and Rs.626.13 Crores as a pass through in tariff for the FY15 and on account of this, the equity remains intact. Hence, the petitioners has requested to allow the RoE of Rs.51.15 Crores for the FY13.

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

   Reconsider/modify the Order under review in so far it relates to approval of ARR for FY13

   (1) by allowing:

      i) Rs.91 Crores towards Regulatory Asset as a pass through in tariff.
      ii) Rs.76 Crores towards O & M expenses as a pass through in tariff.
      iii) Rs.28.69 Crores towards interest on working capital
      iv) Rs.51.15 Crores towards Return on Equity

   (2) to consider Rs.246.84 Crores, being the total of the above claims, as cumulative deficit in the ARR, and pass through the same in the tariff for the FY15.

4. We have heard the counsel for the Petitioner. During the course of hearing, the Counsel, reiterated the grounds for revision of the ARR as made out in the written submissions. The counsel has also filed additional documents in support of the additional O & M expenses incurred and other claims made in the petition.

5. We have carefully considered the submissions made by the petitioner. The Commission's analysis and the decisions, on each of the issues, are discussed below:

i) Regulatory Asset

The Commission in its Tariff Order dated 28th October, 2011, had decided to carry forward a Regulatory Asset of Rs.91.00 Crores to be recovered in the ARR of FY13. In the subsequent Tariff Order dated 30th April, 2012, the Commission has included the Regulatory Asset of Rs.91.00 Crores, while determining the net ARR for the FY13 as indicated in the Table 4.23, at page No. 61 of the Tariff Order 2013. The said Table is reproduced below:

TABLE - 4.23

Average Cost of Supply for FY13

Rs. In Crores

Sl.No	**Particulars**	**BESCOM**
1	ARR for FY13	12759.47
2	Regulatory Asset for FY13 as per Tariff Order dated 28.10.2011	91.00
3	Unmet Revenue Gap of FY12 subject to APR for FY12	174.84
4	Net ARR for FY13	13025.31
5	Energy Sales in MU	25855.76
6	**Average Cost (Rs. per unit)**	**5.04**

Further, the revenue deficit of the petitioner for the FY13 as per the then existing rates are worked out in the Table 5.1 (at page 65), as below:

TABLE – 5.1

Revenue Deficit for FY13

Particulars	Rs.in Crores
Approved Net ARR	13025.31
Revenue as per existing rates from sale of power	12652.26
Surplus / (Deficit)	373.03

While noting that as per the approved ARR for the FY13, the average cost of supply to be recovered through tariff is Rs.5.04 per unit, on the basis of the above revenue deficit, the Commission has proceeded to determine the tariff based on the approved ARR for FY12. Accordingly, while approving ARR for the FY13 as per APR in the Tariff Order 2014, in the Table 4.26, the Regulatory Asset for the FY13 has not been again reckoned as an item of 'expenditure' as the revenue from tariff for the year is inclusive of Regulatory Assets amount of Rs.91.00 Crores included in the ARR for FY13 as per the tariff determined in Tariff Order for FY13.

Hence, the prayer of the petitioner to allow the same, as a pass through in Tariff Order for the FY15 is untenable and baseless. The petitioner's prayer on this issue is, therefore, rejected.

ii) Return on Equity:

The Commission in its Order dated 12th May, 2014 has considered opening balance of equity and share deposit as per the audited accounts. The accumulated profit/losses as reported in the audited accounts is also factored in while computing the equity.

During the Annual Performance Review (APR), the actual equity amount as per the audited accounts is being considered with reference to the approved amounts. During the APR, the expenses are allowed as per the norms stipulated in the MYT Regulations. There is no provision in the Regulations to compensate the losses.

The petitioner has submitted that, while the profit during a year increases the equity, the same principle cannot be applied if losses are incurred, as it will result in erosion of equity. We note that, the contention of the petitioner is against the accepted accounting procedure. While the accumulated profit (retained earnings) is treated as addition to the equity (which is reinvested in the business), the loss is treated as reduction in equity resulting in erosion of the equity. Hence, to the extent of loss, the investment in business gets reduced and the RoE shall obviously be with reference to the actual equity after considering such losses. Though the truing up of ARR is done by the Commission and the approved gap or surplus thereon is carried forward to immediately succeeding year, the net effect of such truing up is reflected in the tariff of the such financial year and the profit or loss of that year is known only after the accounts are drawn up at the end of that financial year. The effect of truing up cannot be applied for the same year by redrawing the accounts, as prayed by the petitioner.

On the submission that, the true-up of Subsidy towards IP Sets from the Government of Karnataka (GoK) is not being considered in computing the equity, the Commission notes that, the effect of truing up decisions including the additional subsidy from GoK, gets crystalized only in the subsequent year and hence the same gets reflected in the audited accounts of that year. The contention of the petitioner that whether the Company makes profits or losses, the RoE of 15.5% has to be allowed is not tenable.

Hence we reject the prayer made by the petitioner not to consider the losses for computing equity for the purpose of calculation of the RoE.

iii) O&M Expenses

a) The petitioner in its application dated 27.01.2012 for approval of ARR, had claimed O & M expenses of Rs.920.20 Crores for FY13. The Commission in its Order dated 30th April, 2012 had allowed O & M expenses of Rs.822.80 Crores, as per the MYT Regulations, duly allowing the following additional O & M expenses considered as uncontrollable amounting to Rs.129.45 Crores:

	Rs. Crores
Increase in pay due to revision	52.89
Increase in DA on increased pay	39.93
HRA on increase in pay	5.29
HRA increase due to revision	4.23
Additional P&G contribution as per Actuarial valuation report dated 23.01.2012	16.74
Additional employee cost due to recruitment of new employee	10.37
Total	129.45

As against the said approved O& M expenses, the petitioner, in its application for APR for FY13, had claimed an amount of Rs.841.29 Crores as normative O&M expenses by considering the weighted inflation index rate of 10.53% with WPI and WPI in the ratio of 81: 19 and Consumer Growth at 5.57% as per actuals of FY13 over FY12. An additional O&M expenses of Rs.47.29 Crores was also claimed as uncontrollable O & M expenses, the breakup of which is as under:

(I) increase in HRA, Rs.11.80;
(II) providing additional vehicle to the newly created service stations, Rs.23.29 Crores; and
(III) for providing help line personnel Rs.12.20 Crores.

Thus, the total O & M expenses was claimed by the petitioner in the APR is Rs.888.49 Crores.

b) The Commission in its letter No. B/10/13/1467 dated 31.12.2013, while conveying its preliminary observation on the APR for the FY13, had directed the petitioner to furnish the actual amount of additional uncontrollable O&M expenses incurred on account of revision of pay, DA, HRA, Contribution to P&G Trust, Contribution under NDCPS and on recruitment of new employees, as also the detailed explanation/documents for having included the additional O&M expenses of Rs.182.63 Crores.

The petitioner, while furnishing its replies to the Commission's preliminary observations, had furnished the following details on the additional uncontrollable O&M expenses in Cores included in the application:

	Rs. Crores
Increase in basic pay due to revision	53.15
Increase in DA pay due to revision at 75%	39.86
Increase in HRA pay due to revision at 10%	5.31
Increase in DA	19.96
Increase in P&G Contribution	42.95
Total	161.24

Thus as against a claim of Rs.182.63 Crores, the BESCOM had furnished break up of for Rs.161.24 Crores only. The petitioner has now claimed the additional O&M expenses of Rs.182.63 Crores, which is stated to be the additional uncontrollable O&M expenses included in the application filed by the petitioner for the approval of the ARR for FY15 (page No. 91 of filing for FY15). The petitioner has not been consistent in its claim on the additional O & M expenses and also has not furnished details and documents in full in support of its claim.

c) The Commission in its Tariff Order dated 30.04.2012, had approved the ARR for the FY13 by considering the Consumer Growth Index (CGI) based on 3 years CAGR, using the actuals of FY10-12 for FY13 at 5.38% and the weighted inflation index rate of 5.17% as per the then prevailing CERC notification with CPI and WPI in the ratio of 55:45 for computation of the O&M expenses.

d) Subsequently, the Commission in its Tariff Order 2014-15 dated 12.05.2014, while approving the APR for the FY13, after considering the methodology followed during the FY11 and FY12 has decided to continue the same methodology in applying the inflation factor, for the FY13 as well. Thus, the Commission, for the Control Period of FY11-13, has consistently adopted the same methodology while considering the Consumer Growth Index on the basis of 3 year CAGR and inflation index rate as per the CERC notification, issued from time to time.

e) The Commission in its Tariff Order 2014, had approved the petitioner's APR for the FY13, with the approved normative O&M expenses of Rs.598.36 Crores by considering the CGI based on 3 year CAGR rate of 4.31% (based on actuals of FY10-13) and weighted inflation index rate of 5.93% as determined by CERC for that year with the CPI and WPI ratio of 55:45. The additional uncontrollable O&M expenses on account of, 25% increase in pay due to pay revision at Rs.52.89 Crores, increase in DA at Rs.40.59 Crores, HRA increase at Rs.9.35 Crores (at 10% on increased pay and DA) and increase in HRA due to revision at Rs.6.10 Crores (at an average of 2% on basic salary plus increase in pay at 25% and DA at 76.75%) has been considered. In addition to this, an amount of Rs.164.06 Crores has been included for pension & gratuity contributions. Thus, with these items of the additional uncontrollable O&M expenses, the total O&M expenses of Rs.871.34 were allowed in the APR for FY13.

f) The petitioner, in this Review Petition, has requested to consider inflation rate of 10.53% by considering CPI and WPI in the ratio of 81 : 19 and consumer growth rate of 4.95%, considering the actual growth rate for the FY13 over the FY12.

g) On the issue of inflation rate, the Commission notes that, while computing the O&M expenses in the approved ARR for FY11-13, the under MYT frame work and while revising the ARR, during the APR for FY11 and FY12, the inflation rate has been considered as per the notification issued by the CERC from time to time, duly considering the CPI and the WPI in the ratio of 70:30. Since the FY13 is in the same control period, the Commission decides to adopt the same ratio for approval of APR for the FY13. Considering the CPI and WPI in the ratio of 70:30 (as against the ratio adopted at 55:45), the inflation rate works out to 6.00% for the FY13. On the basis of inflation rate at 6.00% and CGI based on 3 years CAGR of 4.31%, the allowable normative O&M expenses would be

Rs.598.74 Crores for the FY13 as against Rs.598.36 Crores considered earlier. **Thus, the Commission decides to allow an additional amount of Rs.0.38 Crores as additional O & M expenses.**

h) On the issue of considering additional O&M expenditure of Rs.23.29 Crores incurred for having provided the additional vehicles to 120 new service stations and Rs.12.20 Crores towards cost to provide helpline, the Commission had directed the petitioner to submit the copies of the relevant vouchers, duly certified by the Chartered Accountant, as a proof of payment thereon. In compliance, the petitioner has submitted certified vouchers only for Rs.10.56 Crores towards both these heads to the Commission, vide its Memo dated 23.01.2015. Thus the petitioner has failed to fully substantiate the claim of Rs.23.29 Crores. If we consider the number of additional vehicles provided by the petitioner for creation of new service stations and the number of employees engaged from manpower service agencies to man the helpline, the claim for additional O&M expenses as made out by the petitioner without submitting the required supporting documents, does not appear to be reasonable and genuine. Further, on verification of the Petitioner's Audited Accounts for the FY13, it is noticed that, the petitioner has not prescribed any separate head of account to account for these items of additional expenditure. The total expenditure incurred by the petitioner on account of conveyance and travel expenses for the year is Rs.22.28 Crores and remuneration to contract agencies is Rs.50.71 Crores and thus, petitioners claim of Rs.23.29 Crores and Rs.12.70 Crores appear to be unjustified.

In the light of the above, the Commission decides to consider an amount of only Rs.10.56 Crores as additional O&M expenditure towards expenses on vehicles provided to newly created service stations and providing manpower to helpline centers, which has been incurred in compliance of the Commission's directives.

i) On the issue of considering the additional expenditure of Rs.11.80 Crores towards increase in HRA, the Commission notes that, while submitting the replies to the preliminary observations made by the Commission on the application filed for approval of APR for the FY13 and ARR for the FY15, the petitioner has intimated that the additional expenditure incurred on account of increase in the HRA for the FY13 was Rs.5.31 Crores, at an average of 10% increase in pay due to revision of pay scales, without furnishing any calculation sheet/ supporting documents. The Commission after taking into consideration the increase in the HRA at an average rate of 10%, (on increase in the pay at 25%)and increase in the HRA due to revision at an average rate of 2% (on the basic plus 25% increase in pay and DA at 76.75%), had allowed a reasonable amount of Rs.15.45 Crores. (Rs.9.35 Crores and Rs.6.10 Crores). **Thus, the petitioner's contention that the HRA increase for different periods has not been considered by the Commission, is not tenable and the request for considering additional HRA is rejected.**

6. For the foregoing reasons, we pass the following:

ORDER

An additional O & M expenses of Rs.10.94 Crores and consequential additional interest on working capital of Rs.0.05 Crores are hereby allowed in the APR for FY13 and the same shall be carried forward to the ARR of FY17.

The Review Petition is disposed of accordingly while rejecting all other reliefs sought.

Sd/-	Sd/-	Sd/-
(M.K. SHANKARALINGE GOWDA) CHAIRMAN	(H.D. ARUN KUMAR) MEMBER	(D.B. MANIVAL RAJU) MEMBER