

**JOINT ELECTRICITY REGULATORY COMMISSION
FOR THE STATE OF GOA AND UNION TERRITORIES
GURGAON**

Quorum
Shri S.K.Chaturvedi, Chairperson
Petition No. 171/2015
Date of Order: 14.07.2015

In the matter of

Petition for Review of Tariff Order dated 10.04.2015 passed by Joint Electricity Regulatory Commission for the State of Goa and UTs in Petitions No. 163/2015 and 164/2015 for FY 2015-16 of Electricity Department, UT Chandigarh

And in the matter of

Electricity Department- Chandigarh

.....**Petitioner**

Argued by for petitioner

1. Shri M.P. Singh, SE, ED- Chandigarh.
2. Shri Pawan Sharma – AEE (Coml.)

ORDER

The Electricity Department, UT Chandigarh- Petitioner has filed the present petition for Review of the Tariff Order dated 10.04.2015 passed by Joint Electricity Regulatory Commission for the State of Goa and UTs in Petitions No. 163/2015 and 164/2015 for FY 2015-16 filed by Electricity Department, UT Chandigarh.

The brief facts giving rise to the present petition are that ED, UT Chandigarh had filed Petitions No. 163/ 2015 and 164/2015 for approval of business plan for control period of FY 2015-16 to FY 2017–18 and determination of Multi Year Tariff for FY 2015-16 of ED, UT Chandigarh. The Commission after hearing all concerned decided the Petitions vide Order dated 10.04.2015 and determined tariff only for FY 2015-16 of ED, UT Chandigarh.

The Petitioner ED, UT Chandigarh has filed the present Petition for review of Tariff Order dated 10.04.2015 passed by Joint Electricity Regulatory Commission for the State of Goa and UTs in Petitions No. 163/2015 and 164/2015 for approval of Business Plan for control period of FY 2015-16 to FY 2017–18 and determination of Multi Year Tariff for FY 2015-16 to FY 2017-18 of ED, UT Chandigarh received in the Commission on 25.05.2015.

Briefly about the review petition:

The Petitioner is a distribution licensee for the area of UT Chandigarh. The Petitioner does not have its own Power Generating Stations and power demand of the Petitioner is met from allocation of power from Central Sector Generating Stations. The Commission under Section 94 of the Electricity Act and Regulation 74 of the JERC (Conduct of Business Regulations), 2009 has power to review its own orders.

The petitioner submitted that the Commission has carried the same surplus of Rs 23.51 crore for FY 2013-14 (after taking into consideration revenue gap of Rs. 32.87 crore approved for FY 2012-13) after review of ARR for FY 2013-14 in the Tariff Order dated 11.04.2014. The provisional true up is not being done based on the actual income and expenditure for FY 2013-14. The surplus carried out in the previous order was based on eight months review only and cannot be treated as actual for carrying forward. The Commission has asked to submit accounts on commercial accounting principle by 30.09.2015 and the carrying cost for the gap for FY 2011-12 and FY 2012-13 be allowed. The surplus/ gap for FY 2013-14 be approved after considering accounts prepared on commercial accounting principles. The accounts prepared on the commercial accounting principles shall be submitted to the Commission by 30.09.2015. Therefore, the carrying cost for the gap for FY 2011-12 and 2012-13 be also considered by the Commission.

The Commission in its directive No. 10 under clause 7.7 of the order under review mentioned that the details in the business plan submitted by the utility in petition no. 163/2015 are insufficient and Commission is constrained to defer the implementation of Multi Year Tariff concomitant business plan. The Commission admitted the business plan of the Petitioner for control period 2015-18 in the form of Petition No. 163/2015 and admitted MYT Petition for FY 2015-18 as Petition No. 164/2015. The business plan was found insufficient by the Commission and directed the Petitioner to resubmit by 31.07.2015. Therefore, the fee paid by the Petitioner for Petition for approval of business plan and approval of MYT be adjusted in the Petitions for future business plan and MYT for control period 2016-19.

The Commission vide order dated 05.05.2014 in suo-moto Petition No. 76/2012 directed the Petitioner to reduce T&D losses to 14.5% for FY 2015-16. Therefore, the directive to achieve the target of T&D losses up to 13.7% in the order under review is contradictory to the earlier order of the Commission dated 05.05.2014 passed in Petition No. 76/2012 and the Petitioner be asked to achieve the target of T&D losses of 14.5% only.

It seems that the Commission has adopted principle of lower of projected amount by ED, UT Chandigarh based on actual or approved in previous order while approving O&M expenses. The employees expenses, which were projected lower as compared to the approved amount in previous tariff order, are approved as projected. The Commission has kept R&M and A&G expenses at same level as approved in previous order and the rationale given by the Commission is that these expenses are controllable in nature. The logic adopted by the Commission on O&M expenses in the order under review is not correct and the Commission in the JERC (Terms & Conditions for determination of Tariff) Regulations, 2009 has not defined controllable and non-controllable nature of O&M expenses. The Commission has also not shared the gains on employees expenses made by the Petitioner and appropriate action be taken for FY 2015-16 as per JERC (Terms & Conditions for determination of Tariff) Regulations, 2009.

The Commission allowed 0.5% bad debt only for FY 2014-15 but did not approve provision for bad debts for FY 2015-16. The Commission has approved tariff for one year for FY 2015-16 only. Therefore, provision for bad debt up to 1% be allowed to the Petitioner as per JERC (Terms & Conditions for determination of Tariff) Regulations, 2009.

The Commission directed the Petitioner that increase in the generation tariff due to true up of CERC Plants tariff can be recovered through FPPCA and the Petitioner must adjust the recoveries on account of positive FPPCA in the approved surplus and not to charge the consumers till such time the approved surplus is adjusted. The Petitioner submitted that billing in UT Chandigarh for DS and NRS category Consumers comprises of six cycles and each cycle is consisting of four groups and it is bi-monthly billing. Whereas billing of LS, MS, SP, AP, PL and BS consumers is on monthly basis and for these categories there are twelve cycles. Therefore, in order to calculate the approved surplus if FPCCA is virtually charged in a particular group cycle even than in such method all consumers will not be covered and then eventually more FPCCA amount shall be charged. It is, therefore, prayed that the Petitioner be allowed to charge FPPCA and at the time of review (APR) the same can be reevaluate up in the review of FY 2016-17.

The Commission has introduced fixed charges for domestic category consumers and increases the fixed charges for NRS category. The Commission approved the following tariff for DS and NRS consumers:

Tariff Category	FY 2015-16	
	Fixed Charge (Rs. kW per month)	Variable Charges (Rs. Per kWh)
Domestic		
<i>SPD – JJ Cluster/ Unauthorized Colonies/ Slum Dwellers</i>	0	2.30
<i>0-150 kWh</i>	7	2.30
<i>150-400 kWh</i>	7	4.20
<i>Above 400 kWh</i>	7	4.40
Commercial		
<i>0-150 kWh</i>	10	4.30
<i>150-400 kWh</i>	75	4.50
<i>Above 400 kWh</i>	75	4.70

So, it is evident that the Commission has approved consumption slab wise based demand charges rather than load based. Therefore, it is prayed to clarify that whether the fixed charges approved are that:

i. Whether the fixed charges approved are **consumption slab wise** based OR **simply consumption range based**.

Ex: If bimonthly consumption of a NRS consumer is more than 800 units and his sanction load is 10 kW then fixed charges shall be computed as per under:-

0-300 units: $10 \times 10 \times 2 =$ Rs 200/-

301-800 units: $10 \times 75 \times 2 =$ Rs 1500/-

Above 801 units: $10 \times 75 \times 2 =$ Rs 1500/-

Total FC= Rs 3200/-

OR

(i) If bimonthly consumption of NRS consumer is upto 300 units, then FC= Rs. $10 \times 10 \times 2 =$ **Rs. 200/-**

(ii) If bimonthly consumption of NRS consumer is between 301 and upto 800 units, then FC= Rs. $10 \times 75 \times 2 =$ **Rs. 1500/-**

(iii) If bimonthly consumption of NRS consumer is more than 800 units, then FC= R.s $10 \times 75 \times 2 =$ **Rs. 1500/-**

Hence in view of above, commission is requested to advise that if the bimonthly consumption of a NRS consumer is more than 800 units and his sanctioned load is 10 Kw, then he should pay Rs. 3200/- or Rs. 1500/- as per (iii) above.

Further, as the above process of calculating fixed charges in complex, it is kindly requested that as requested in CED tariff petition for FY 2015-18, following approach of calculating Fixed Charges be approved for easier understanding and implementation:-

For DS Consumers:-

Sanctioned Load	Fixed Charges (Rs./Kw/KVA/HP/ Month)
All Loads	7.00

For NRS Consumers:-

Sanctioned Load	Fixed Charges (Rs./Kw/KVA/HP/ Month)
0-20 kW	10.00
>20 kW	75.00

The Commission has approved service connection charges for new connection upto 60 kW only and has not mentioned anything for load above 60 kW. Even service connection charges for public lighting consumers have not been mentioned in the Tariff Order. The Petitioner submitted that 60 KW limit is not commensurate with JERC (Electricity Supply Code) (First Amendment) Regulations, 2013. Wherein, there is provision of releasing new connection for 100 KW or more load on 11 kV. Therefore, it is prayed for service connection charges for every consumer category including public lighting be provided in the order under review in commensurate with JERC (Electricity Supply Code) First Amendment) Regulations, 2013.

The Commission is also to define minimum contract demand as percentage of sanctioned load and the contract demand should not be less than 60% of sanctioned load / contract demand in order to comply Regulation 6.5 (5) of JERC (Electricity Supply Code) Regulation and Clause 11.3 (B)(f) of the order under review.

The Commission in applicability for DS **consumers** has mentioned following in the Order under review:-

“Government recognized education institutions, viz. schools, colleges, universities, ITI hostels, canteens, and residential quarters attached to the educational institutions”

- In the applicability for **NRS consumers**, following has been mentioned in tariff order FY 2015-16:-

- a. *Hostels (other than those recognized/aided institutions of Chandigarh Administration)*
- b. *Pvt Schools/colleges, coaching institutes, research institutes, (Other than those run by the Chandigarh Administration),*
- c. *Auditoriums, Hospitals, clinics, dispensaries, nursing homes / diagnostic centers (other than those run by the Chandigarh Administration).*

The Petitioner prayed to replace the above clauses with the following clauses:-

Govt. run/ aided education institutions, viz. schools, colleges, Universities, ITI hostels, canteens, and residential quarters attached to the educational institutions”

- a. *Hostels (other than those **run aided institutions of Govt.**)*
- b. *Pvt. Schools/colleges, coaching institutes, research institutes, (Other than those **run /aided by Govt.**),*
- c. *Auditoriums, Hospitals, clinics, dispensaries, nursing homes / diagnostic centres (other than those **run /aided by the Govt.**).*

The Commission at page No. 24 of the order under review has mentioned that “ *If in two continuous months the consumer exceeds the contracted load/contracted demand the portion of the load/demand in excess of the contracted load/demand will be dealt as per the provisions made in JERC (Electricity Supply Code) (First Amendment-2013)*”.Whereas according to Regulation 4.13 (3) of JERC Supply Code Regulations (First Amendment) Regulations, 2013 there is provision of penalty of Rs. 250/- per kVA/kW if the actual maximum demand indicating device of the meter. If the MDI meter reflects actual max demand higher than sanctioned load for three consecutive billing cycles, the sanctioned load of such consumers shall be automatically enhanced to average of the maximum demand recorded in previous 3 billing cycle and excess amount of security deposit shall be charged in the next billing cycle. The Petitioner submitted that the provisions regarding no. of billing cycles made at page 241 of tariff order of FY 2015-16 under above head (i.e. two continuous months) is not consistent with the provisions made in JERC electricity supply code first amendment Regulation 2013 (i.e. any billing cycle). This needs clarification as the provisions made in JERC (Electricity Supply Code) (First Amendment-2013)are the basic applicable rules

Secondly, the penalty for such case of exceeding the contracted load/contracted demand, there is difference between the provisions made at clause no. (7) at page 240 of approved tariff order for FY 2015-16 (i.e. double the normal billing rate) and clause 4.13(3) of JERC (Electricity Supply Code) (First Amendment)2013 (i.e.Rs. 250 per kVA/kW). This needs clarification.

Suitable solution for both meters with MDI feature as well as non MDI feature may be provided to Petitioner for its better understanding and implementation.”

The character of service mentioned for DS,NRS, MS, BS, Temporary category consumers (i.e. load greater than 60 kW be released on HT) is not as per clause 3.3.(5) of JERC Electricity Supply Code 2010 as amended from time to time.“

“As per JERC Supply Code Regulation, Load projected to be 100 kW or more be released on HT.”

Therefore, the load projected to be 100 KW or more be released all HT consumers as per the JERC (Electricity Supply Code) (First Amendment) Regulations, 201.

The case of the Petitioner further is that as per provision No. 8 at page No. 242 of the order under review regarding power factor charges for HT/EHT consumers is to be clarified that “If the monthly average power factor of a consumer falls below 70% (0.7 lagging) in any billing cycle, such consumer shall pay a surcharge in addition to his normal tariff @ 2% on billed demand and energy charges for each fall of 0.01 in power factor below 0.7(lagging).”

*The Commission in clause 7 Chapter 11 at page No. 242 of the order under review has directed that billing in case of HT/EHT consumers shall be on the maximum demand recorded during the month or 75% of the contracted demand whichever is higher and if in any month recorded maximum demand of the consumer exceeds it as contracted demand that portion of the demand in excess of the contracted demand shall be billed at double the normal rate. Similarly, energy consumption corresponding to excess demand shall also be billed at double the normal rate and definition of maximum demand shall be in accordance with the provisions of the JERC (Electricity Supply Code) (First Amendment) Regulations, 201. The Commission further held that if such overdrawal is more than 20% of the contract demand in that situation connection shall be disconnected immediately. The Petitioner has sought a clarification as to whether they should continue to charge demand surcharge on the portion by which MDI exceeds the contract demand (@ 250/KV) became incorrect. The Petitioner has prayed that meaning of (billing) should be defined. The billing in excess of HT/EHT consumer shall be on the maximum demand recorded during the month or sanctioned load/contracted demand whichever is earlier. The existing provisions provides that billing in case of HT/EHT shall be on the maximum demand recorded during the month or 75% of the contracted demand whichever has higher and should the consumption in such cases be enhanced suitably so as to correspond with the 75% of the contracted demand i.e. assuming contract demand as 100 KVA, MDI at 60 and total energy consumption as 12000 KWH and should be consumption be enhanced to 15000 (12000*75/60).*

If yes, then

- (a) should the consumption thus calculated be used for all calculation purposes like SOP, i.e. ,FPPCA etc. ?
- (b) 3% enhancement in consumption for HT supply and LT metering cases should be done before or after the above enhancement?

- (c) should KVAH consumption also be enhanced correspondingly?
Shall the Contract demand surcharge @ Rs. 250/ kVA for LS consumers be still charged in view of the contents mentioned at Sr No. ix(b) above?

It is further to be clarified whether such demand surcharge shall be debited to consumer account in first violation or be debited till the consumer remove such violation?"

The Petitioner further submitted that clause under general terms and conditions at page 244 of the order under review "Advance Payment Rebate" lack clarity and prayed that only prompt payment rebate should be allowed for implementation of the Advance Payment Rebate.

The Commission at page No. 264 of the order under review under DS category has observed that where a portion of the dwelling is used for the mixed load purposes the connection shall be billed for the purpose for which the tariff is higher. This is contradictory to provisions under section 126 of the Electricity Act and Regulation 10 (1) of the JERC Electricity Supply Code (First Amendment) Regulations, 2013 wherein such use of electricity has been placed under unauthorized use of electricity.

The Review Petition was technically examined and found as per the Electricity Act and JERC (Conduct of Business) Regulations. The Review Petition was admitted on 03.06.2015 and numbered the same as 171/2015. The Petitioner filed additional submissions dated 08.06.2015 received in the Commission on 12.06.2015. The Commission sent hearing notice to the Petitioner for 16.06.2015. The Commission heard Shri M.P. Singh, SE, ED, UT Chandigarh and Shri Pawan Sharma – AEE (Coml.), ED, UT Chandigarh for the Petitioner on 16.06.2015 at Commission's HQ.

The Petitioner by way of additional review petition submitted that in sub clause 'N' of clause 11.2 at page 252. The Commission did not mention unit "Rs./KW" in the Rates for Security Deposit for new / extension in load and prayed that the existing heading of sub clause 'N' of clause of 11.2 at page 252 by the following:-

"Rates for initial Security Deposit for new/extension in load only (Rs./KW or KVA or HP)".

The Commission did not make any provision of surcharge of 20% if consumer is availing supply at 440 V instead of 11 KV supply. therefore, it is prayed that Petitioner be allowed to levy surcharge at 20% on the tariff shall be levied for all the **existing consumers** which are being given supply at 400 volts instead of 11 kV. However, such agreement shall in no case continue for more than six months and such existing consumers shall apply afresh for availing supply on 11 kV pressure. If such consumers do not come forward to avail supply at 11 kV pressure even after sixmonths, surcharge @40% on the tariff shall be levied for further next 6 months and after the expiry of above mentioned twelvemonths (12=6+6), the supply to the premise shall be disconnected without any further notice."

The Petitioner further prayed that following miscellaneous and general charges be also included in the order under review

(A) Line Mtc. and lamp renewal charges for Public Lighting where the initial installation of complete street light fittings and lamps and their subsequent replacement shall be carried out at the Board/Licensee's cost, the line maintenance and lamp renewal charges shall be as under:-

A.1 Ordinary/CFL/LED lamps:

(i)	Lamps up to 150 watts	<i>Rs. 16/- per lamp per month</i>
(ii)	Lamps above 150 watts	Special Quotation

A.2 Mercury Vapour lamps:

(i)	Lamps of 80 watts	Rs.49/- per lamp per month
(ii)	Lamps of 125 watts	Rs.53/- per lamp per month
(iii)	Lamps of 250 watts	Rs.90/- per lamp per month
(iv)	Lamps of 400 watts	Rs.101/- per lamp per month

A.3 Fluorescent tubes:

(i)	Single 2 ft 20 watts	Rs.26/- per lamp per month
(ii)	Single 4 ft 40 watts	Rs.43/- per lamp per month
(iii)	<i>Double 2 ft 20 watts</i>	Rs.43/- per lamp per month
(iv)	<i>Double 4 ft 40 watts</i>	Rs.68/- per lamp per month

(B) Demand Notice Extension Fee (for each period of 3 months)

a.	<i>DS & NRS</i>	<i>Rs.50/-</i>
b.	<i>AP</i>	<i>Rs.500/-</i>
c.	<i>SP</i>	<i>Rs.200/-</i>
d.	<i>MS/LS/BS</i>	<i>Rs.2500/-</i>

The Commission in the matter of **CHARTER OF SERVICE of NRS** Tariff Category has approved "AC, 50 cycles, single phase at 230 Volts or 3 Phase at 400 Volts or 11 Kilo volts For loads up to 5 KW, supply shall be given on single phase 230 volts and above 5 KW up to 30 KW, supply shall be given on 3 phase 400 volts. For loads above 30KW, supply shall be given on 11 KV in case of multi consumer complex including commercial complex and in other cases for load above 60 KW the supply shall be on 11 KV. In case of consumers where metering is done on low voltage side of the transformer instead of high voltage side, the consumption should be computed by adding 3% extra on account of transformation losses."

The Petitioner prayed that the approved provision is contradictory with Regulation 3.3 (5) of the JERC (Supply Code) (First Amendment) Regulations, 2013 and there is also ambiguity in multi consumer complexes cases. The Petitioner has sought amendment of the above as under:-

“AC, 50 cycles, single phase at 230 Volts or 3 Phase at 400 Volts or 11 Kilo volts.

For loads up to 5 KW, supply shall be given on single phase 230 volts and above 5 KW up to 99 KW, supply shall be given on 3 phase 400 volts. For loads 100 kW or above, supply shall be given on HT.

*In case of multi consumer complexes such as Group Housing societies & commercial complexes, the new connection sought, shall be provided with single meter on LT if **total load of complex/ premise** is below 100 kW and on HT if the **total load of complex/ premise** is 100 kW or more.*

In case of consumers where metering is done on low voltage side of the transformer instead of high voltage side, the consumption should be computed by adding 3% extra on account of transformation losses. This arrangement shall continue for a maximum of one year within which metering shall be shifted to HT (11KV) side of the transformers.”

The Petitioner further submitted that the acts mentioned for unauthorised use of electricity in clause 19 of the order under review is in contradiction with the Electricity Act and prayed for amendment in line with section 126 of the Electricity Act and JERC (Electricity Supply Code) (First Amendment) Regulations, 2013.

The Order on Review Petition:

The Commission has heard Shri M.P. Singh, SE, ED, UT Chandigarh and Shri Pawan Sharma, AEE (Comml.), ED, UT Chandigarh for the petitioner at length and has gone through the original petitions no. 163/205 and 164/2015, the order under review, the review petition, provisions of Section 114 and order 47 Rules (1) and (2) of the Civil Procedure Code, Sections 94 and 95 of the Electricity Act, 2003 and Regulation 74 of the JERC (Conduct of Business) Regulations, 2009. The commission has applied its mind on the facts of the petitions and law on the point.

The Commission is of the opinion that the commission derives powers of review from Section 94 of the Electricity Act. The Commission as per the provisions of Section 94 of the Electricity Act has framed Regulation 74 of the JERC (Conduct of Business) Regulations, 2009 for review of its own orders. Under Section 95 of the Electricity Act all the proceedings before the Commission are judicial proceedings and the Commission has all powers of Civil Court. The Civil Court under section 114 of the Civil Procedure Code and under order 47 Rules (1) & (2) has powers to review its own orders and judgments. The grounds for review of an order or judgment are given under order 47 Rules 1 & 2 of the Civil Procedure Code. Therefore, before proceeding further it will be appropriate to reproduce the provisions of Section 114 and order 47 Rules (1) and (2) of the Civil Procedure Code

Sections 94 and 95 of the Electricity Act, 2003 and Regulation 74 of the JERC (Conduct of Business) Regulations, 2009.

**Section 114 of the Civil Procedure Code reads as under:-
Section 114 CPC Review**

Subject as aforesaid, any person considering himself aggrieved,-

- a. by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,
- b. by a decree or order from which no appeal is allowed by this Code, or
- c. by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.

**Order 47 Rules (1) and (2) of the Civil Procedure Code reads as under:-
Order 47 Rules and 2 CPC**

Application for review of judgment;-

(1) Any person considering himself aggrieved –

- a. by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- b. by a decree or order from which no appeal is allowed, or
- c. by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

**Section 94 of the Electricity Act runs as under:-
Powers of Appropriate Commission**

1. The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:-
 - a. summoning and enforcing the attendance of any person and examining him on oath;
 - b. discovery and production of any document or other material object producible as evidence;
 - c. receiving evidence on affidavits;
 - d. requisitioning of any public record;
 - e. issuing commission for the examination of witnesses;
 - f. reviewing its decisions, directions and orders;
 - g. any other matter which may be prescribed.

2. The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.
3. The Appropriate Commission may authorize any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

**Regulation – 74 the JERC (Conduct of Business) Regulations, 2009 runs as under:-
Review of the decisions, directions and order**

a. The Commission may at any time on its own motion or on the application of any of the persons or parties concerned, within 45 days of the making of any decision, direction or order, review such decisions, directions or orders and pass such appropriate orders as the Commission thinks fit:

Provided that power of review by the Commission on its own motion shall be exercised limited to correction of clerical or typographical errors.

b. An application for such review shall be filed in the same manner as a Petition under Chapter II of these regulations.

The petitioner has filed this petition under section 94 of the Electricity Act to review its order dated 10.04.2015. From bare reading of Section 94 (f) of EA, 2003 it is clear that this Commission has power to review its own orders or decisions as a Civil Court under the Civil Procedure Code. The same powers are vested in this Commission and same provisions of Order 47 Rule 1 of the CPC shall apply. From reading of provisions of Order 47 Rules 1 and 2 of the CPC it is clear that review is maintainable on following grounds only:-

- a. Discovery of a new and important matter of evidence which even after exercise of due diligence was not within the knowledge of the Petitioner'
- b. Discovery of new and important matter of evidence which even after exercise of due diligence could not be produced by the Petitioner during the original proceedings which culminated in the final order passed;
- c. Order made on account of some mistake or error apparent on the face of the record or any other sufficient reasons."

The issues raised under the Review Petition are addressed as under:

The prayer of the petitioner for considering the carrying cost for the gap for FY 2011-12 and FY 2012-13 is not allowed as the Hon'ble APTEL in Appeal No. 70/2007 has held that carrying cost, if any, for the period of delay in filing the petition shall not be allowed. Even otherwise, the Petitioner has failed to make out a case for review as provided under orders 47 Rule (1) and Rules (2) CPC and Section 74 of the EA.

The Commission framed the JERC (Multi Year Distribution Tariff) Regulation, 2014. The petitioner filed the main Petitions No. 163/2014 and 164/2014 for approval of business plan for the control period of FY 2015-2016 to FY 2018-2019 and determination of multi-Year Tariff for FY 2015-2016. The petitioner paid the fee for the said petitions. The Commission admitted the Petitions No. 163/2014 and 164/2015. The Commission had held public hearing of petitions on 18.3.2015. The Commission after hearing all concerned and stake holders reached the conclusion that the petition for approval of the Business Plan for the control period of FY 2015-2016 to 2018-2019 is incomplete and decided to proceed to determine tariff for FY 2015-2016 only. Hence, there is no case of review as provided under order 47 Rules (1) and (2) CPC and Section 74 of the EA.

Regarding target of T & D Losses, the petitioner has referred to the Commission's Order dated 05.05.2014. However, the issue was clarified in the Commission's Order dated 9th July, 2014 in the matter of the Review of Tariff Order for the FY 2014-15. The Petitioner has failed to make out a case for review as provided under orders 47 Rule (1) and Rules (2) CPC and Section 74 of the EA and the Commission is of the opinion that there is no illegality or error on the face of the record in the order under review on this issue. Hence, this issue does not require review.

The Commission has carefully and thoroughly examined the issue regarding O & M expenses for the FY 2014-15 and FY 2015-16 and is of the considered opinion that trying up or review of the same will be carried out in accordance with the JERC (Terms & Conditions for determination of Tariff) Regulations, 2009. Hence, no change in the order as prayed for, is required and even otherwise there is no provision for seeking clarification in a review petition as per the provisions of order 47 Rules (1) and (2) CPC and Section 74 of the EA.

According to the Commission as per Regulation 28 of JERC ((Terms and Condition for determination of Tariff) Regulations, 2009, the Commission may, after the generating company / licensee gets the receivables audited, allow a provision for bad debts up to 1% of receivables in the revenue requirement of the generating company / licensee

From reading the provisions of Regulation 28 of JERC (Terms and Condition for determination of Tariff) Regulations, 2009, it is clear that the Commission can allow bad debts up to 1% of the receivables in the revenue requirement. The Petitioner in the original petition, public hearing, review petition and hearing of the present review petition admitted that the receivables are not yet audited. Therefore, the Commission after the Petitioner gets the receivables audited, may allow a provision for bad debts up to 1% of receivables in the revenue requirement of the Petitioner. The Petitioner has failed to make out a case of review as provided under order 47 Rules (1) and (2) CPC and Section 74 of the EA.

The Commission considered the difficulty shown by the Petitioner on the direction for adjustment of approved surplus in recovery of FPPCA and reached the conclusion that this issue falls within the ambit of Order 47 Rules (1) and (2) CPC and Section 74 of the EA, therefore, decides to review the issue and allow the Petitioner to recover the FPPCA from the consumers, in accordance with the JERC (Terms & Conditions

for Determination of Tariff) Regulations, 2009, and no adjustment of approved surplus is required at this stage.

The Commission considered the difficulty shown by the Petitioner on the issue of determination of fixed charges of the NRS consumers and found that it is a fit issue to be reviewed and the issue comes within the ambit of order 47 Rules (1) and (2) CPC and Section 74 of the EA. Therefore, the Commission decides to review the issue.

The Commission directs that fixed charges of the NRS consumers be recovered on the basis of sanctioned load instead of consumption slab of the consumer. Therefore, Table No. 8.2 at page No. 227 of the Tariff order under review is replaced by the following table:-

Sl. No.	Category/Consumption Slab	Approved Tariff for FY 2015-16	
		Demand Charges (Rs./kW/Month)	Variable Charges (Rs./ kWh)
A	Domestic		
1	<i>SPD-JJ Clusters/ Unauthorized Colonies/ Slum Dwellers</i>	0.00	2.30
2	<i>0-150 kWh</i>	7.00	2.30
3	<i>151 kWh-400 kWh</i>		4.20
4	<i>Above 400 kWh</i>		4.40
B	Commercial		
5	<i>0-150 kWh</i>	See Foot Note 1	4.30
6	<i>151 kWh-400 kWh</i>		4.50
7	<i>Above 400 kWh</i>		4.70
C	Large Supply	75.00	4.70
D	Small Power	10.00	4.40
E	Medium Supply	75.00	4.50
F	Agriculture	0.00	2.30
G	Public Lighting	75.00	4.30
H	Sign Boards	75.00	6.00
I	Bulk Supply	75.00	4.50
J	Others-Temporary Supply	75.00	6.70

Note 1. Fixed Charges for Commercial (NRS) Category :

Sanctioned Load	Fixed Charges (Rs./Kw/ Month)
0-20 kW	10.00
>20 kW	75.00

The above changes will be effected similarly in Table no. 10.2 on Page 236 and in the detail Tariff Schedule on Pages 257 to 260 under section 11 of the Tariff Order under Review

The Commission is further of the opinion that there is a typographical error in the Title of Para No. 11.3 A at Page No.253 of the order under review and directs that the same be read as under:-

SERVICE CONNECTION CHARGES FOR INDUSTRIAL, BULK SUPPLY AND PUBLIC LIGHTING

Also, the words 'up to 60 kW 'are replaced by the words 'for All loads' in Para No. 11.3 B at Page No. 253 of the order under review.

The Petitioner has sought a definition of 'minimum contract demand'. The Commission examined this issue carefully and thoroughly and reached to the conclusion that the 'minimum contract demand' need not be defined as the limit of 'minimum contract demand' is given in tariff schedule i.e. 100kW for HT supply etc. Hence, the Petitioner has failed to make out a case for review under order 47 Rules (1) and (2) CPC and Section 74 of the EA.

The Commission dealt with the issue regarding 'Government run/aided institutes' vis-à-vis 'Government aided institutes' at length and comes to the conclusion that the Petitioner has failed to make out a case for review on this issue according to the provisions of 47 Rules (1) and (2) CPC and Section 74 of the EA. The Petitioner has failed to show any patent illegality or infirmity on the face of record or that there is a typographical error. Therefore, the prayer of the Petitioner to review this issue is also repelled.

The Commission on examination found that the tariff / Energy Charges for the Sign boards in Table 10.2 on Page 236 and Tariff schedule under Chapter 11 at Page No. 256 of the order are not matching. So, it is a clerical / typographical error which needs to be corrected and the Commission orders that Tariff for this category in the above Table / detailed tariff schedule is to be read as Rs. 6.00/ kWh.

The Commission examined condition No. 9 of the General Terms & Conditions at Page no. 241 of the Tariff Order under Review ,regarding 'Additional Charges for exceeding contracted load / contracted maximum demand' and found that this condition is not as per the JERC (Terms & Conditions for determination of Tariff) Regulations, 2009. Therefore, it falls within the ambit of order 47 Rules (1) and (2) CPC and Section 74 of the EA. Therefore, this issue is reviewed and condition No. 9 at Page no. 241 of the Tariff Order under Review, of the General Terms and Conditions regarding 'Additional charges for exceeding contracted load/contracted maximum demand' stands deleted.

The Commission examined the issue of load limit for LT Supply and HT supply given in tariff schedule and found that the issue raised by the petitioner for review of load limit for LT Supply and HT supply falls within the purview of order 47 Rules (1) and (2) CPC and Section 74 of the EA. The Commission also clarifies that load limit for the LT supply and HT supply in the various description of tariff schedule or character of service is to be considered as 'below 100kW' for LT supply and '100kW and above' for HT supply in accordance with the Supply code.

The Commission applied its mind on the issue of penalty for the power factor below 0.7 and came to the conclusion that the Petitioner has failed to make out a case under the provisions of order 47 Rules (1) and (2) CPC and Section 74 of the EA and also failed to show any illegality or infirmity and clerical / typographical error. Therefore, the Commission is of the opinion that there is no ground to review the order on this issue at this stage. The Commission further decides to address this issue in the next regular tariff proceedings as if this issue is reviewed at this stage the same will have large impact on the tariff of all categories of the consumers.

The Petitioner has sought definition of the term 'billing'. The Commission examined this issue also at length and comes to the conclusion that the Petitioner could not make out a case for review under order 47 Rules (1) and (2) CPC and Section 74 of the EA. The Commission observes that there is no need to define the term 'billing' as the explanation given in condition-7 of the 'General terms and Conditions' provided in the order under review clearly provides the details about treatment of energy and demand in case of excess demand, hence no further clarification or review is required on this issue. So, the prayer of the Petitioner to review this issue is repelled.

The Petitioner has sought clarification on 'advance payment rebate' and 'prompt payment rebate'. The Commission examined this issue and is of the opinion that clarification does not fall under the conditions given in order 47 Rules (1) and (2) CPC and Section 74 of the EA. Therefore, the Commission is of the opinion that there is no ground to review this issue and decides to continue the 'Advance Payment Rebate' along with the 'Prompt Payment Rebate'.

The Petitioner has prayed that in case of mixed load the connection shall be billed for the purpose for which tariff is higher. But this condition falls within the definition of unauthorized use. The Commission examined this issue at length and is of the view that using electricity for the purpose where tariff is lower than the tariff for authorized purpose cannot be considered as un-authorized use of electricity. Therefore, it does not fall in the conditions provided in order 47 Rules (1) and (2) CPC and Section 74 of the EA and hence no review is required.

The Petitioner has prayed for clarification of clause 11.2 (N). The Commission examined that there is an error on the face of the record and this issue requires review. Therefore, the Commission orders that the description of para 11.2 Sr. No. 'N' of the Order under review be read as - "Rates for Initial Security Deposit for new/extension in load only. (Rs./ KW or kVA or HP)" in place of "Rates for Security Deposit for new/extension in load only.

The Petitioner submitted that there is no provision for surcharge of 20% if consumer is availing LT Supply instead of HT Supply. The Commission considered the issue and is of the opinion that as note (i) under description of 'Large Industrial Power Supply (LS) provides for the surcharge in case of supply at LT level, therefore, there is no case under order 47 Rules (1) and (2) CPC and Section 74 of the EA. Is made out for review the order on this issue and the prayer of the Petitioner to review this issue is repelled.

The Petitioner has prayed that some miscellaneous and general charges for bulb replacement etc. are to be added. The Commission examined this issue at length and is of the opinion that some miscellaneous and general charges for bulb replacement etc. can be added as there is an error on face of record and the prayer of the Petitioner falls under the provisions of order 47 Rules (1) and (2) CPC and Section 74 of the EA. Therefore, as prayed by the petitioner, following 'Miscellaneous and General Charges' are approved:-

“(A) Line Mtc. and lamp renewal charges for Public Lighting where the initial installation of complete street light fittings and lamps and their subsequent replacement shall be carried out at the Board/Licensee's cost, the line maintenance and lamp renewal charges shall be as under:-

A.1 Ordinary/CFL/LED lamps:

(i)	Lamps up to 150 watts	Rs. 16/- per lamp per month
(ii)	Lamps above 150 watts	As per a Special Quotation by the Licensee based on Wattage & Type of Lamp

A.2 Mercury Vapour lamps:

(i)	Lamps of 80 watts	Rs.49/- per lamp per month
(ii)	Lamps of 125 watts	Rs.53/- per lamp per month
(iii)	Lamps of 250 watts	Rs.90/- per lamp per month
(iv)	Lamps of 400 watts	Rs.101/- per lamp per month

A.3 Fluorescent tubes:

(i)	Single 2 ft 20 watts	Rs.26/- per lamp per month
(ii)	Single 4 ft 40 watts	Rs.43/- per lamp per month
(iii)	Double 2 ft 20 watts	Rs.43/- per lamp per month
(iv)	Double 4 ft 40 watts	Rs.68/- per lamp per month

Demand Notice Extension Fee (for each period of 3 months)

	DS & NRS	Rs.50/-
	AP	Rs.500/-
	SP	Rs.200/-
	MS/LS/BS	Rs.2500/-

Revival fee (one time only) for cancelled application shall be twice the demand notice extension fee as prescribed above.”

The Petitioner has prayed that in NRS Category it is mentioned that for load above 60 kW the supply shall be at 11 kV and the same requires to be revised at 100 kW as per JERC ((Electricity Supply Code) Regulations, 2010 . The Commission examined this issue also and is of the opinion that the issue relating to load limit for LT supply and HT supply has been already dealt by the Commission, therefore, the description of NRS consumers stand corrected accordingly.

The Petitioner submitted that the term ‘unauthorized use of electricity ‘ is to be revised as per the EA and JERC (Electricity Supply Code) Regulations, 2010. The Commission considered this prayer of the Petitioner and found that the term ‘unauthorized use of electricity’ given in Condition 19(A)(1) requires review, therefore, Condition 19 (A) (1) is replaced by following:-

The following acts on the part of consumer are to be considered as unauthorized use of electricity for the purpose of assessment under the provisions of Section 126 of the Act;

- I. Use of electricity by any artificial means; or
- II. Unauthorized use of electricity by means not authorized by the concerned person or authority or licensee; or
- II. Use of Electricity through tampered meter; or
- IV. Use of electricity for the purpose other than for which the usage was authorized; or
- V. Use of electricity for the premises or areas other than those for which supply of electricity was authorized.”

The Commission while hearing the review petition observed that there are clerical / typographical errors in the order under review and the same need to be corrected. Therefore, the Commission while exercising its powers of suo-moto review as provided under order 47 Rules (1) and (2) CPC and Section 74 of the EA makes the following corrections:-

In line No. 2 of Para No. 11.3 A at Page No. 252 of the order under review **Service Connection Charges for Domestic Supply** "Rs 75/- be read Rs. 750/- .

In the light of above observations and findings, the petition stands disposed of.

Sd/-
(S.K.CHATURVEDI)
CHAIRPERSON

(CERTIFIED COPY)

(KEERTI TEWARI)
SECRETARY