

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

Coram

Dr. V.K. Garg, Chairperson
Sh. S.K.Chaturvedi, Member

Petition No. 86/2012

In the matter of:

Review Petition of ED, UT of Dadra and Nagar Haveli of Order dated 31st July, 2012 issued by the Commission on Re-determination of Retail Tariff for FY 2011-12, True-up of Aggregate Revenue Requirement for FY 2010-11, Review of FY 2011-12 & Aggregate Revenue Requirement (ARR) & Retail Tariff for the Financial Year 2012-13.

And in the matter of:

Electricity Department, UT of Dadra and Nagar Haveli

.....Petitioner

ORDER

Date 24.01.2013

1. INTRODUCTION

1.1 In exercise of the powers conferred by Section 83 of the Electricity Act, 2003 the Central Government constituted a two member (including Chairperson) Joint Electricity Regulatory Commission for all Union Territories except Delhi to be known as "Joint Electricity Regulatory Commission for Union Territories" with Headquarters at Delhi as notified vide notification no. 23/52/2003- R&R dated 2nd May, 2005. Later with the joining of the state of Goa, the Commission came to be known as "Joint Electricity Regulatory Commission for the State of Goa and Union Territories" as notified on 30th May, 2008. The Joint Electricity Regulatory Commission (for the State of Goa and Union Territories) started functioning with effect from August 2008 in the district town of Gurgaon, Haryana.

1.2 Electricity Department- UT of Dadra and Nagar Haveli (ED- DNH) herein the petitioner has filed the present petition under section 94 (1) (f) of the Electricity Act, 2003 (hereinafter referred as 'the Act') and Regulation 74 of Joint Electricity Regulatory Commission (Conduct of Business) Regulations 2009 (in short referred as 'the Regulations') for review of order dated July 31'2012 passed by the Commission in petition no. 62 of 2012 filed by the petitioner for True up of Annual Revenue Requirements for the year 2010-11, Reviewing the Annual Revenue Requirements for the year 2011-12 and Approval of the Annual Revenue Requirements and determination of tariff for the year 2012-13.

1.3 After hearing and following provisions of Law and Regulations framed there under, the Commission passed detailed tariff order on July 31'2012 in the matter of petition no. 62 of 2012 for true-up of ARR for FY 2010-11,

review of tariff of FY 2011-12 and determination of tariff for FY 2012-13 in the petitions no. 32/2011 and 62/2012 filed by Electricity Department, UT of Dadra and Nagar Haveli. Thereafter the Electricity Department, UT of Dadra and Nagar Haveli (hereinafter referred to as 'petitioner') filed a review petition in the month of September 2012 under section 94(1) (f) of Electricity Act, 2003 seeking review of the order dated July 31'2012 passed by the Commission.

1.4 At the outset, it would be useful to set out section 94(1) (f) of Electricity Act, 2003 and Regulation 74 (a) of JERC (Conduct of Business) Regulations, 2009, which reads as follows:

Quote “

Powers of Appropriate Commission

Section 94. (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 in respect of the following matters, namely: -

(f) reviewing its decisions, directions and orders;

“

”

Regulation 74. Review of the decisions, directions and orders

(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”.

Unquote “

1.5 The petitioner has prayed for review of the impugned order dated July 31'2012 on the following points:

- a. “Approval of the Gross Fixed Assets for the year 2010-11 and consequential effect on Depreciation and Return on Equity/Capital Base.*
- b. Disallowance of Power Purchase Cost on account of net UI purchases.*
- c. Transmission & Distribution losses considered by the Hon'ble Commission.*
- d. Incorrect computation of the refund of FPPCA charges to consumers.*
- e. Interest on FPPCA charges provided by the Hon'ble Commission.*
- f. Inter-state transmission losses.*
- g. Power Factor Rebate and Surcharge provided by the Hon'ble Commission.*
- h. Error in the Fixed Charges for LT Industrial consumers stipulated by the Hon'ble Commission”.*

1.6 The petitioner craves leave to make oral submissions at the time of hearing.

1.7 The petitioner has further prayed to admit the review petition and review of the order dated July 31'2012 passed by the Commission on the grounds mentioned in the petition and pass such other order as the Commission may deem just in the facts of the present case.

1.8 On receipt of the petition, the petition is taken on record as petition no. 86/2012 on 18.09.2012. The petition was admitted on 21.09.2012.

1.9 The Commission heard the matter on 10.10.2012 and passed following order:-

Quote “

The Commission heard representative of the petitioner. The representative of the petitioner sought computation sheet of power purchase quantum, cost and UI. The same was handed over to the representative of the licensee. As regards to power factor incentive the Commission directed the petitioner to submit actual data of power factor incentive and surcharge of HT consumers from April to September 2012. The Commission also directed the petitioner to file actual billing details of top 25 consumers in HTA and top 25 consumers for HTB for the same period so as to make an analysis of the impact of proposal of the power factor incentive and surcharge of the tariff order.

The petitioner prayed for one month time to submit the requisite information. The Commission considered the request, acceded the same and directed the petitioner to submit the information on or before 31.10.2012”.

1.10 The Commission on 06.11.2012 heard the petitioner and passed following order:-

Quote “

On 5.11.2012 an e-mail was received from Shri Anand K Ganesan, Advocate for the petitioner ED-DNH with a submission that the petition of ED-DNH, listed for hearing tomorrow on 6.11.2012 be postponed. They submitted that they have already filed consumer data for surcharges and incentive factor on power factor and prayed for additional one week time for filing UI data.

Representative of the petitioner made similar prayer before the Commission during hearing on 06.11.2012. The Commission considered the prayer and acceded the same.

The petition is scheduled for hearing on 26.11.2012 at 11:00 AM in the Commission. In the mean time the petitioner is directed to file UI data”.

1.11 The Commission again heard representative for the petitioner on 26.11.2012 and passed the following order:-

Quote “

“The representative of petitioner prayed for 15 days more time for filing UI data stating that the UI data could not be prepared due to rush of work. The Commission considered the prayer and acceded the same. The petitioner is directed to file the UI data on or before 12.12.2012.

The petition is schedule for hearing on 19.12.2012 at 11:00 AM”.

1.12 ED DNH submitted the actual UI data along with UI bills for FY 2011-12 during the hearing on 19.12.2012 as per orders dated 10.10.2012, 6.11.2012 and 26.11.2012.

1.13 The Commission heard representative of the petitioner and gone through the ARR and Tariff determination petition FY 2012-13 of ED-DNH, impugned order dated July 31’ 2012 and documents on record as well as relevant provisions of Electricity Act, 2003 and JERC Regulations. Chapter 2 of this order examines the various contentions of the petitioner in petitions no. 32/2011 and 62/2012.

2. SSUE WISE CONTENTIONS AND SUBMISSIONS OF THE PETITIONER AND COMMISSION'S DECISION

2.1. Approval of the Gross Fixed Assets for the year 2010-11 and consequential effect on Depreciation and Return on Equity/Capital Base

Petitioner's submission

2.1.1. The petitioner have stated the following

Quote “

5. *Hon'ble Commission has, in previous years had rejected the prayer of the petitioner for approval of gross fixed assets and consequent servicing of return on equity, depreciation as the petitioner does not have a Fixed Asset register and audited accounts.*

6. *In view of the above, in the present tariff proceedings the Petitioner caused its accounts for the year 2010-11 to be audited by an independent Chartered Accountant. This was despite the fact that the Accounts of the Petitioner are maintained in the format of the Government Department and not as a corporate entity. The Petitioner, to satisfy the regulatory requirements caused its accounts to be drawn up in the format of a corporate entity and audited by an independent Chartered Accountant and filed before the Hon'ble Commission.*

7. *The Hon'ble Commission, in the impugned order has not accepted the Audited Accounts of the Petitioner for the year 2010-11, inter-alia, on the following grounds:*
 - a. *The Balance sheet which forms the part of the audited accounts shows the gross fixed asset as at 31.03.2011 at Rs 471.10 Crores. The Schedule 8 of the audited accounts shows value of value of GFA at Rs 471.10 Crores as on 31.03.2009.*
 - b. *The fixed asset and depreciation register as submitted by the Petitioner has opening value of the assets as on 01.04.2008 instead of 01.04.2010 and the same opening value is also mentioned in the schedule 8 of the audited accounts as on 01.04.2008.*
 - c. *There is a mismatch between the classification of assets in fixed asset registers and audited accounts.*
 - d. *Further, the fixed asset and depreciation registers contain the comments by the auditor 'prepared by us on the basis of records and information produced before us' and the seal of the Chartered Accountant does not contains the membership number which is factually and legally not acceptable.*

Keeping in view the facts as discussed above, It is observed that the asset registers are prepared on the basis of as-is information and as such assets are not physically verified, and the remark of Chartered accountant is not acceptable in view of the facts the same was also directed by the Hon'ble Commission in the public hearing that the remark of the Chartered

Accountant should be 'assets are physically verified by the auditor and are effectively deployed for which the tariff is being claimed or fixed'.

8. *With regard to the issues of the dates of the accounts mentioned incorrectly in the audited accounts, it is respectfully submitted that the Petitioner had during the hearing before the Hon'ble Commission clarified that the same was a typographical mistake and the date of 1.4.2008 was actually 1.4.2010 and the date of 31.3.2009 was 31.3.2011. There was no change in the figures in the accounts but only an inadvertent mistake in the dates had crept in the accounts.*
9. *The Hon'ble Commission has not referred to the above, which is a mistake apparent on the face of the record.*
10. *It is also submitted that in view of the above, there is no mismatch between the classification of assets in the fixed asset register and the audited accounts. For confirmation beyond any doubt whatsoever, the Petitioner is also filing the confirmation by the certificate of the Chartered Accountant which is attached hereto and marked as Annexure A. It is submitted that even the Institute of Chartered Accounts which governs and supervises the Chartered Accountants also do not raise any issues on the question of inadvertent typographical mistakes when the same crops up and is clarified. The same is also confirmed by the certificate of the Chartered Accountant which is attached hereto and marked as Annexure A.*
11. *It is also submitted that the role of any auditor is restricted to verifying the books of accounts and not to physically verify each and every asset. The auditor has, based on audit standards specified by the Institute of Chartered Accountants of India, caused the accounts to be audited including verify such assets of physical basis which were deemed necessary.*
12. *The Hon'ble Commission has, despite the audited accounts, come to the finding that no Gross Fixed Assets for the Petitioner can be taken. It is respectfully submitted that the Hon'ble Commission ought to take the Audited Accounts as the base figure and apply prudence check to disallow any imprudence in the operations of the Petitioner. The order of Commission has however proceeded to completely disallow any gross fixed assets to be Petitioner. It is also submitted that the operations of the Petitioner is one of the most efficient in the country and the loss levels in the union territory of Dadra and Nagar Haveli are comparable to the best in the country including established private sector distribution licensees in cities such as Ahmedabad, Kolkata, and Delhi etc. In the circumstances, it is respectfully submitted that the Hon'ble Commission may review the order on the issue of the gross fixed assets to be allowed to the Petitioner.*
13. *It is also submitted that the Membership Number issued by the Institute of Chartered Accountants of India is to individual members and not to firms. In the circumstances, the Membership number is mentioned only for the individual members certifying the accounts and does not form part of the seal of the accounting firm. This aspect may also be considered by the Hon'ble Commission.*

14. *It is submitted that the Petitioner has complied with the directions of the Hon'ble Commission for the audit of its accounts and has taken proactive steps to fulfill its obligations in the regulatory set up and provide the audited accounts to the Hon'ble Commission.*
15. *In the circumstances, it is respectfully prayed that the Hon'ble Commission may review the aspect of the gross fixed assets and approve the same based on the audited accounts of the Petitioner.*
16. *It is submitted that the issue of depreciation and return on equity has been disallowed by the Hon'ble Commission on the ground of the gross fixed assets has not been approved. It is submitted that on the issue of review of the gross fixed assets, the issue of depreciation and return on equity to be allowed to the Petitioner is consequential. The effect of the above decision on the gross fixed asset and the consequent depreciation and return on equity would squarely apply to the years 2010-11 in the provisional truing up proceedings, 2011-12 in the review of the ARR proceedings and also for the year 2012-13 in the tariff determination proceedings”.*

Unquote “

Commission’s analysis

2.1.2. While considering the contentions of the petitioner, the following questions would arise:

- i. Does not the fixed assets require physical verification by the department auditor or third party?, if yes, the notes of the auditor in the audited accounts should reflect the same?
- ii. Does the fixed assets and depreciation registers ascertain all assets entered in the stock register are still rendering the services [(i) a part of these may be unusable, (ii) a part may have become obsolete and scrap, (iii) a part may be damaged and same may be missing from stores which remain in the books but not written - off and not being used for the purpose or lying elsewhere], or is it actually deployed for rendering service to the consumers for which the tariff is proposed to be determined/ fixed/charged?
- iii. Does the asset registers provide the information of the assets including the present status of usability of the asset and whether the asset in use or not, their linkage to the stores and invoice number etc.?

2.1.3. The above issues have already been examined in detail during the hearing at JERC office at Gurgaon and also in the public hearing at Silvassa decided in the tariff order dated July 31’2012. The relevant extract of the order are as under:

Quote “

The Commission had approved the capitalization of Rs. 19.94 Crores for the purpose of Aggregate Revenue Requirement in its ARR and tariff order dated November 01’2010.

The Commission had not accepted the opening gross fixed assets as projected by the department for the reasons as mentioned below in its tariff order for FY 2010-11:

“The entire capital expenditure has been funded by the Central Government through budgetary support without any external borrowings. The ED-DNH has not maintained any Asset Register and Depreciation Register. The Department has not prepared any Proforma Accounts. ED-DNH has not prepared the statements of accounts viz profit & loss account, balance sheet etc. The figures given in the above Table are computed by the ED-DNH but they are not audited. It is mentioned by the ED-DNH in JERC Order on ARR & Tariff Petition for ED – DNH FY 2010-11 their reply dated 31.07.2010 that depreciation for the years has been computed till FY 2006-07 as a difference of current year and previous year’s accumulated depreciation and the figures for FY 2007-08 are also taken as per SBI CAPS Report but the opening figures differ from the year 2006-07 closing figures. Depreciation is to be arrived at by applying applicable rates of depreciation from time to time and the accumulated depreciation is to be arrived at by adding the year to year depreciation.

Regulation 22 (2) of JERC (Terms and Conditions for Determination of Tariff) Regulations, 2009 reads as follows:

“Investments made prior to and upto 31st March immediately preceding the date of notification of these Regulations or date of receipt of a petition of tariff determination whichever is earlier shall be considered on the basis of audited accounts or approvals already granted by the Commission”.

- a. The Department has not maintained the Asset Registers and Depreciation Registers.*
- b. There are no audited accounts for the Regulated Business of Electricity.*
- c. The department itself has admitted that the Gross Fixed Assets have been built up based on available information as on 31.03.2008.*
- d. There is a discrepancy created by the contention of ED-DNH that the data on GFA till 2006-07 has been taken from SBI-CAPS report whereas SBICAPS in their report have mentioned that the analysis done in their report is primarily based on the data / information provided by the Electricity Department of DNH, OI DC and PGCIL.*
- e. Verification of assets was done after the completion of audit and that too not from a third party or accredited agency.*

On account of above the Commission is unable to accept Gross Fixed Assets as given by the Department without audited accounts for the purpose of arriving at the Capital Base and allowing Depreciation and Return on Capital Base.

The Commission directs the ED-DNH to prepare and maintain their annual accounts on commercially accepted principles for the regulated business and get them audited as required under JERC (Terms and Conditions for Determination of Tariff) Regulations, 2009 (10/2009)”.

In compliance to the Commission’s directive the petitioner has furnished the audited accounts for FY 2010-11 but as mentioned by the auditor in the audited accounts of FY 2010-11 in note 4 of Schedule no. 27 and note 6 of Schedule no. 28 as given below:

Note 4 of Schedule no. 27

Fixed Assets

Fixed Assets are stated at cost including all attributable charges properly incurred in erecting and bringing the asset in commercial use. The opening gross value of the fixed assets, accumulated depreciation and net block of assets as on 01.04.2008 are stated at values determined by the engineers of the department.

Note 6 of Schedule no. 28

Fixed Assets

- a) *During the current year fixed assets are not physically verified by the department and hence discrepancies if any, could not be ascertained or reported.*
- b) *All the assets accounted for are in working conditions, hence none of the assets has been transferred to 'Assets not in use'.*

The petitioner subsequently has produced the fixed asset register for the FY 2010-11 which confirms the value of the gross fixed assets for the FY 2010-11 contained in the audited accounts. However there are certain inconsistencies noted in the audited accounts and asset & depreciation registers and are listed below:

- a) *The Balance sheet which forms the part of the audited accounts shows the gross fixed asset as on 31.03.2011 at Rs 471.10 Crores. The Schedule – 8 of the audited accounts shows value of value of GFA at Rs 471.10 Crores as on 31.03.200 also.*
- b) *The fixed asset and depreciation register as submitted by the petitioner has opening value of the assets as on 01.04.2008 instead of 01.04.2010 and the same opening value is also mentioned in the schedule 8 of the audited accounts as on 01.04.2008.*
- c) *There is a mismatch between the classification of assets in fixed asset registers and audited accounts.*

The asset registers could not provide the specific information of the assets including the present status of the asset, whether the asset in use or not, their linkage to the stores, invoice number etc. This information is crucial to assess the net value of the assets employed in the business of electricity.

Further, it is difficult to ascertain that the assets shown in the asset registers are still rendering the services. As such the information on the following could not be ascertained from the fixed asset and depreciation registers:

- *Assets in use either for rendering the service or lying as redundant in stores.*
- *Assets not in use.*

- *Assets exist but lying as dead stock.*
- *Assets considered as scrap.*
- *Assets considered as scrap but not traceable.*

Considering the present facts, the fixed assets records produced by the UT of Dadra and Nagar Haveli since its inception as UT, do not show any write off sanction in the fixed asset registers. Since there is no write off sanction for the period for which tariff is being fixed, entire stock could not be considered as 'assets in use' for the same and the sole purpose of third party verification through a Chartered Accountant is needed by the utility which has produced the unverified information for consideration of the Commission.

*Commission appreciates the efforts made by the petitioner in regard to the completion of audited accounts and compilation of fixed asset & depreciation registers. However in view of the anomalies as highlighted above, the present un-verified information as submitted by the petitioner could not be considered and as such the opening value of gross block as on 01.04.2010 is not being allowed as a gross block for the purpose of depreciation, interest charges and return on equity. Since the capital expenditure of Rs. 68.22 Crores has already been incurred during FY 2010-11, Commission considers it admissible as an addition of 68.22 Crores in the gross block for the purpose of true-up of FY 2010-11. **Keeping in view the above, Commission provisionally considers the depreciation of Rs. 1.76 Crores for true up of ARR of FY 2010-11 for addition in the gross block during FY 2010-11".***

Unquote “

The Commission observeds that as detailed in para 2.1.3 (d) above:-

ED- DNH is referring to the SBI Caps report. Merely referring to the SBI Caps report does not fulfill the requirement of due diligence.

2.1.4.As can be observed from the above, basis of rejection of prayer of the petitioner for consideration of opening value of gross fixed assets for FY 2010-11 is that the assets and depreciation registers could not provide the required information to ascertain the assets that were actually deployed for the year for which tariff is being fixed or claimed. Further the auditor's certificate does not ascertain the 'write off sanctions' during the year. In view of the above, entire assets cannot be considered as 'usable' for the business of retail supply and wheeling of electricity. It would not be fair to make consumers to pay for the assets which are actually not deployed for which the tariff is being fixed.

2.1.5.The contradicting notes under audited accounts for 'fixed assets' are note no. 4 of schedule no. 27, note no. 6 of schedule no. 28 and the comment mentioned by auditor on a fixed asset & depreciation register are mentioned below:

Quote “

Note 4 of Schedule no. 27

Fixed Assets

Fixed Assets are stated at cost including all attributable charges properly incurred in erecting and bringing the asset in commercial use. The opening gross value of the fixed assets, accumulated depreciation and net block of assets as on 01.04.2008 are stated at values determined by the engineers of the department.

Note 6 of Schedule no. 28

Fixed Assets

- c) *During the current year fixed assets are not physically verified by the department and hence discrepancies if any, could not be ascertained or reported.*
- d) *All the assets accounted for are in working conditions; hence none of the assets has been transferred to 'Assets not in use'.*

Comment in fixed asset and depreciation register by a different auditor

“prepared by us on the basis of records and information produced before us”.

Unquote “

2.1.6.As can be observed from the above and also brought out in the tariff order, that the above mentioned notes in the auditor’s report, and the errors in the representation forms the basis of rejection of opening value of gross fixed assets. As highlighted above, the auditor’s report act as an assurance service for the user (Commission in this case) to make decisions based on the results of financial audit.

2.1.7.Further the above mentioned notes, the note 4 of schedule 27 states that the opening gross value of fixed assets, accumulated depreciation and net block as on 01.04.2008 are stated at values determined by the engineers of the department. **Now** the note 6 of schedule 28 states that during the current year fixed assets are not physically verified by the department and further mentions that all the assets accounted for are in working conditions, hence none of the assets has been transferred to ‘Assets not in use’. Both the statements are specifying that the opening value of gross fixed assets are determined by the engineers of the department and is not physically verified either by the auditor or by the department. Also the comment by the different auditor on the fixed asset and depreciation registers furnish by the department, states that fixed assets and depreciation registers are ‘*prepared by us on the basis of records and information produced before us*’.

2.1.8. To the clarification asked by the Commission during the technical validation process, the certification and work of one auditor, on the fixed asset and depreciation register had been defended by another auditor who had audited the audited accounts, which forms the disparity in the contention of the department and the working of the auditor.

2.1.9.**In view of the above, even if the typographical errors are ignored, the auditor’s report, notes to the accounts, comment on the fixed assets & depreciation registers, does not specify that the**

opening value of gross fixed assets is importantly, the assets and depreciation registers furnished by the department could not provide the crucial information to ascertain the assets that are effectively/actually deployed for the year for which tariff is being fixed or claimed. Therefore the Commission rejects the contention of the petitioner and directed to submit the verified & required information for consideration by the Hon'ble Commission as stated in the tariff order dated July 31'2012.

- 2.1.10. ED- DNH is directed to indicate the value list of Assets being used for rendering the services in the ARR of 2013-14 or alternatively indicate as to what % of Gross block be considered on ad hoc basis & the basis thereof which can be considered in the true up which is due in the ARR for FY 2013-14.

2.2. Disallowance of Power Purchase Cost on account of net UI purchases.

Petitioner's submission

- 2.2.1. The petitioner have stated the following:

Quote “

16. *It is submitted that the Petitioner had in its petition submitted the revised estimate of Rs. 1658.29 crores for the power purchase cost of FY 2011-12. Based on the additional information sought for by the Hon'ble Commission, and upon the availability of the actual data for the year 2011-12, the Petitioner has also submitted the actual power purchase cost of Rs. 1712.29 crores for the financial year 2011-12 along with the supporting monthly bills received from the generators. The Petitioner had also, during the course of the tariff proceedings reconciled the inconsistencies pointed out by the Hon'ble Commission with regard to the power purchase cost for the year 2011-12.*
17. *It is submitted that the Hon'ble Commission has in the tariff order not allowed a quantum of power purchased by the Petitioner under UI of Rs. 67.68 crores and reduced the revenue requirements of the Petitioner correspondingly by Rs. 67.68 crores. The Hon'ble Commission has, in the tariff order come to the conclusion that the Petitioner has overdrawn 61.69 MUs of electricity as net-over-drawal, however the basis for arriving at the said working figure for the year 2011-12 has not been provided in the tariff order.*
18. *It is respectfully submitted that on this issue, the Hon'ble Commission may provide the computation and working sheets for arriving at the figure of 61.69 MUs of net over-drawal of electricity by the Petitioner, to enable the Petitioner to elaborate and make further submissions in the matter.*
19. *It is submitted that the Petitioner does not have any generating station of 2 and there are times when on account of the load drawal by the consumers in the Union Territory, electricity is procured through UI mechanism. The tariff order of the Hon'ble Commission for the year 2011-12 also did not provide for any penalty to be imposed on the Petitioner for drawal of electricity through UI mechanism. In the circumstances, it is respectfully submitted that the Hon'ble Commission may consider and review its decision to disallow the UI charges at this stage of review and truing up.*

20. Without prejudice to the above, it is further submitted that the tariff order passed that the Hon'ble Commission clearly provides that the net UI charges are to be disallowed. However, while working out the UI charges to be disallowed, the Hon'ble Commission has deducted not only the UI purchase cost of Rs. 67.68 crores but also deducted the revenue of Rs. 35.80 crores under UI sale from the approved power purchase cost. As a result of this approach, there is an inherent mistake in as much as the Petitioner has been doubly penalized as the net impact of UI comes only to Rs. 31.88 crores (Rs. 67.68 crores minus Rs. 35.80 crores) and not Rs. 103.48 crores considered by the Hon'ble Commission.
21. It is respectfully submitted that the Hon'ble Commission may review the above aspect of the tariff order passed".

Unquote "

Commission's findings

2.2.2. After considering the contentions of the petitioner, the following questions would arise for Commission's consideration:

- i. Is the actual power purchase quantum and cost of FY 2011-12 submitted by the petitioner correctly determined?
- ii. Does the power purchase considered under UI by the petitioner net off by power sale under UI
- iii. Is the net off sale/purchase under UI considered by the Commission wrong?
- iv. Does the petitioner consider the power sale under UI in the actual power purchase quantum and cost submitted by the petitioner for FY 2011-12?

2.2.3. The above issues have been decided by the Commission by way of clarification in its tariff order dated July 31'2012, the reason for variation in the quantum of power purchase for FY 2011-12 was primarily due to linking and calculation errors by the petitioner in its submission. However, the findings of the Commission in the excel workbook named 'PP Cost ED-DNH' are precisely mentioned as under:

- i. Totaling error in the cell H29 and H30 of sheet named '4 FY 2011-12' reflecting the actual quantum of power purchase from Nuclear Power Plant 'KAPPS' and 'TAPP 3&4'. The error is cited below:

*"H29='Annexure III -April 2011'!H29+'Annexure III - May 2011'!H29+'Annexure III - June 2011'!H29+'Annexure III - July 2011'!H29+'Annexure III - Aug 2011'!H29+'Annexure III - Sep 2011'!H29+'Annexure III - Oct 2011'!H29+'**Nov 2011 'IE29**+'Dec 2011 '!H29+'Jan 2012'!H29+'Feb 2012'!H29+'March 2012'!H29"*

"H30 = 'Annexure III -April 2011'!H30+'Annexure III - May 2011'!H30+'Annexure III - June 2011'!H30+'Annexure III - July 2011'!H30+'Annexure III - Aug 2011'!H30+'Annexure III - Sep

2011!'H30+'Annexure III - Oct 2011!'H30+'**Nov 2011 'E30+**'Dec 2011 '!'H30+'Jan 2012!'H30+'Feb 2012!'H30+'March 2012!'H30"

As can be observed the cell 'E29 and E30' are reflecting total generation from the said nuclear plant in the sheet of the month of November 2011 has been wrongly linked with the total power purchase during FY 2011-12. This error amounted to consideration of excess units of **138.20 million units** from KAPPS and **506.33 million units** from TAPPS 3&4 in the petitioner's submission.

- ii. The petitioner in sheet for the month of March 2012 for the RGPPL station, has wrongly mentioned **134.84 million units** purchased in the cell H20 of the month of march 2012. Whereas the actual units purchased for the month of March 2012 from the station as verified from bills and REA are only **15.15 Mu**. This error amounted to a total quantum of power purchased from the station as 204.35 million units as compared to the actual purchase of 99.31 million units. This error amounts to a difference of **105.04 million units** in units purchased from RGPPL.

The error is also depicted in the table below:

Table 1 : Difference between the actual quanta of power purchase submitted by the petitioner and as per REA reports

S. No.	Source	Petitioner's submission	Analysis of Commission	As per REA	Difference
		(MU)	(MU)	(MU)	(MU)
		(1)	(2)	(3)	(4)=(1)-(2)
I	NTPC Stations and other plants				
1	KSTPP 1&2	423.28	449.98	449.98	26.69
2	KSTPS 3	134.22	149.51	149.51	15.29
3	VSTPP-I	324.40	358.28	358.28	33.89
4	VSTPP-II	263.72	291.33	291.33	27.61
5	VSTPP- III	303.42	334.28	334.28	30.86
6	KAWAS	407.68	429.40	429.40	21.72
7	JGPP	291.81	323.50	323.50	31.69
8	NSPCL - Bhilai	1,013.40	1,113.78	1,113.77	100.37
9	Sipat	228.30	249.72	249.72	21.42
10	Sipat-II	138.42	167.41	167.41	28.99
11	RGPPL	204.35	99.31	99.31	(105.04)
12	Tata Power (as per PP bills)	216.08	267.36	267.36	51.27
1	Subtotal - I	3,949.06	4,233.83	4,233.83	284.77
II	Eastern Region	0.00	0.00	0.00	0.00
1	KHSTPP-II	16.60	16.26	16.26	(0.34)
2	Subtotal - II	16.60	16.26	16.26	(0.34)
	Other Adjustment	0.00	0.00	0.00	0.00
III	NPCIL	0.00	0.00	0.00	0.00

S. No.	Source	Petitioner's submission	Analysis of Commission	As per REA	Difference
		(MU)	(MU)	(MU)	(MU)
		(1)	(2)	(3)	(4)=(1)-(2)
	N.P.C.	0.00	0.00	0.00	0.00
1	KAPPS	237.18	98.98	98.98	(138.20)
2	TAPP 3&4	779.02	272.69	272.69	(506.33)
3	Subtotal – III	1,016.20	371.67	371.67	(644.53)
		0.00	0.00	0.00	0.00
IV	Power purchase from Other Sources	0.00	0.00	0.00	0.00
1	Power purchase from Indian E. Exchange	103.32	103.32	103.32	0.00
2	UI (Net Under-drawal)	160.18	(61.68)	(61.68)	(98.49)
5	Subtotal IV	263.50	103.32	103.32	(98.49)
	Grand Total	5,245.36	4,725.09	4,725.09	(458.59)

Table 2 : Difference between the actual cost of power purchase submitted by petitioner and approved by Commission

S.No.	Source	Petitioner's submission (Net Payable) Rs. Crores	Analysis of Commission (Rs. Crores)	Difference (Rs. Crores)
1	2	3	4	5=3-4
I	NTPC Stations and other plants			
1	KSTPP 1&2	56.41	56.41	0.00
2	KSTPS 3	34.88	34.88	0.00
3	VSTPP-I	92.55	92.55	0.00
4	VSTPP-II	72.22	72.22	0.00
5	VSTPP- III	91.38	91.38	0.00
6	KAWAS	176.53	176.53	0.00
7	JGPP	129.47	129.47	0.00
8	NSPCL – Bhilai	453.36	453.36	0.00
9	Sipat	54.99	54.99	0.00
10	Sipat-II	36.77	36.77	0.00
11	RGPP	43.14	43.14	0.00
12	Tata Power	103.33	103.33	0.00
1	Subtotal – I	1,345.03	1345.03	0.00
II	Eastern Region			
1	KHSTPP-II	6.70	6.70	0.00
2	Subtotal – II	6.70	6.70	0.00
	Other Adjustment	14.76	14.76	0.00
III	NPCIL			
1	KAPPS	20.44	20.44	0.00

S.No.	Source	Petitioner's submission (Net Payable) Rs. Crores	Analysis of Commission (Rs. Crores)	Difference (Rs. Crores)
1	2	3	4	5=3-4
2	TAPP 3&4	72.91	72.91	0.00
3	Subtotal – III	93.36	93.36	0.00
IV	Power purchase from Other Sources			
1	Power purchase from Indian E. Exchange	35.31	35.31	0.00
2	UI	67.68	(35.80)*	67.68
5	Subtotal IV	103.00	35.31	67.68
	Power Purchase Cost	1,562.84	1495.16	67.78
V	Other Charges			
1	PGCIL Charges	123.57	123.57	0.00
2	SLDC charges	0.00	0.00	0.00
3	WRDC charges	0.00	0.00	0.00
4	OPTCL - Wheeling Charges	0.00	0.00	0.00
5	WRPC	0.00	0.00	0.00
6	WRTM	0.06	0.06	0.00
7	RP Obligation	17.37	17.44	(0.08)
8	Reactive charges	2.70	2.70	0.00
9	Reactive charges (GETCO)	0.00	0.00	0.00
10	MSETCL	1.75	1.75	0.00
11	POSOCO	4.50	4.50	0.00
	Grand Total of Charges	1,712.79	1645.18	67.61
	Grand Total excluding UI	1645.18	1645.18	0.00

*UI receivables not considered in this table.

2.2.4.As can be seen from the above table the power purchase cost other than UI is not at variance with the petitioner's submission of power purchase cost. The only issue which is disputed is the difference in the UI units and UI Charges. As a standard practice, the net figure of UI overdraw/underdrawl is considered for the analysis of quantum purchased/sold and cost incurred/received during FY 2011-12. The Commission has considered the net effect of UI overdraw/underdrawl for FY 2011-12. The same is also presented as under:

Table 3 : Comparison of UI sale/purchase submitted by the petitioner

S. No.	Unscheduled Interchange (UI) overdraw/ Underdrawl	Petitioner's submission in petition (projected)	Revised submission by petitioner (Actual Power Purchase for FY 12)	Reconciliation of UI Submitted by the petitioner for FY 2011-12	Analysis of Commission (6 months actuals as per REA reports and rest as per weekly UI reports on WRPC website)

		MUs	Crores	MUs	Crores	MUs	Crores	MUs	Crores
1	2	3	4	5	6	7	8	9	10
I	UI Purchase/overdrawl	137.66	71.43	160.18	67.68	131.14	38.58	Net off	38.58
II	UI Sale/underdrawl	242.05	38.73	RENS	RENS	220.63	69.17		69.17
III	Add: Penal Charge		NS	RENS	RENS	-	RENS		5.21
	Net Off	104.39	(32.70)			89.49	30.59	61.68	35.80

RENS – Revised Estimates Not Submitted

NS – Not Submitted

2.2.5. The petitioner during the technical validation session submitted the reconciled statement of actual UI overdrawl/under drawl for FY 2011-12 as shown in the table above. Which was at a large variation from the petition. As per the reconciliation submitted during technical validation session by the petitioner, the amount receivable from UI under drawal of 220.63 MUs is Rs. 69.17 Crores and amount payable for UI over-drawl of 131.14 MUs is Rs. 38.58 Crores resulting into a net receivable amount of Rs.30.59 crores for net under-drawal of 89.49 MUs for FY 2011-12. The Commission, on prudence check from weekly UI reports and REA reports available on WRPC website, estimated a net UI under-drawal of 61.69 MUs. The Commission also observed from these reports that additional UI charges amounting to Rs.5.21 crores had been levied on account of over-drawal at the frequency beyond the permissible band specified by CERC and hence disallowed such penal charges as per the provisions specified by Ministry of Power. Thus the Commission considered net receivable of 35.80 crores for UI under-drawal of 61.69 MUs.

2.2.6. The petitioner, however, has **now** submitted the actual data of UI over-drawal/under-drawal along with UI bills for FY 2011-12 during the hearing on 19.12.2012 in which petitioner has submitted a net receivable amount (including additional UI charges) of Rs.18.77 crores for net UI over-drawal of 92.15 MUs.

2.2.7. Commission rejects the contention of the petitioner that there is an inherent mistake in the calculation of UI sale/purchase. The petitioner should understand the fact that Rs.35.80 Crores has been computed as the net impact of UI under and over drawl. The petitioner in its revised submission had submitted the UI purchase of Rs. 67.68 Crores and considered Rs. 38.73 Crores from UI Sale. Thereby the net impact of the above transaction made by the petitioner is a net UI purchase of Rs. 28.95 Crores (as per the petition), which was calculated on the basis of six months data. The Commission in its tariff order had clearly specified that the actual weekly transactions for full year of FY 2011-12 have been considered for prudence check. This would be prudent to mention that the petitioner has also **now** submitted the reconciliation sheet of UI sale/purchase of FY 2011-12, which shows the net UI sale of 89.50 Million units and a net revenue of Rs. 30.58 Crores from UI transactions during FY 2011-12, which after verification from the REA reports for the first six months and WRPC reports for next six months comes out to be 61.69 million units.

2.2.8. The basic difference is the approach used by the petitioner for projecting UI sale/purchase, trend of UI transaction from April to October 2011 was the only basis for projection. It is to be highlighted

that the trend has taken a complete reversal in the later part of the year, there was an under drawl of UI happened during November 2011 till March 2012.

2.2.9. Further it may also be clarified here that the Commission has not disallowed any UI transactions or power purchase cost. It may be perused from the table 7.7.1 of the Tariff order in contention where the petitioner's submission of the power purchase cost has been summarized. The petitioner had submitted the actual power purchase cost at 1712.79 Crores for the FY 2011-12 which includes the UI over drawl charges of Rs 67.68 Crores. The Commission for the purpose of approval has considered the over drawl and under drawl of UI together, considering which the petitioner's submission of power purchase cost other than UI over drawl comes to Rs 1645.11 Crores (Rs 1712.79 Crores Less Rs 67.68 Crores). The Commission against the said amount has considered Rs 1645.18 Crores towards UI transactions. Therefore it may be seen that there has not been any disapproval of Power purchase cost. Accordingly the Commission has considered the cost of UI over drawl and under drawl together which has resulted in a net over drawl as indicated in the Para 2.2.5 above.

2.2.10. The Commission, however, has noted the facts submitted by the petitioner based on the actual UI data along with the UI bills for complete year FY 2011-12 and is of the view that since the petitioner has already filed petition for true-up of ARR for FY 2011-12, Review of ARR for FY 2012-13 along with petition for Approval of ARR & determination of tariff for FY 2013-14, it will be appropriate to consider this issue during disposal of the petition for true-up of ARR for FY 2011-12.

2.3. Transmission & Distribution losses considered by the Hon'ble Commission.

Petitioner's submission

2.3.1. The petitioner have stated the following:

Quote “

22. *It is submitted that the Hon'ble Commission in the impugned tariff order has not considered the total power purchase quantum of 5245 MUs as submitted by the Petitioner for the years 2011-12. On the other hand, the Hon'ble Commission has only considered the total quantum of 4725.09 MUs against power purchase for the year 2011-12.*
23. *The only reason given by the Hon'ble Commission is that there is a notice by the Hon'ble Commission in the bills checked on random basis. It is submitted that the Hon'ble Commission has not specified as to what was their dues and call for any explanation from the Petitioner for such errors stated to be in existence.*
24. *It is respectfully submitted that there cannot be so was different and in the figures considered by the Hon'ble Commission stated to be taken to the Regional Energy Account and the bills submitted by the Petitioner for their entire year.*

25. *It is submitted that the power purchase quantum of considered by the Hon'ble Commission has the consequent effect on the transmission and distribution loss levels system of the Petitioner. The Petitioner is one of the most efficient electricity distribution utilities in the country and the loss levels in the Union Territory are among the lowest in the country. The circumstances, it is respectfully submitted that the Hon'ble Commission may not be penalise the Petitioner on account of the transmission and distribution losses.*
26. *It is respectfully submitted that the power purchase bills and quantum of submitted by the Petitioner is easily verifiable and can be so verified in the technical validation sessions with the Hon'ble Commission. The Hon'ble Commission may not disallow the entire difference in cost merely on the ground that there appears to be some discrepancy in the bills submitted checked on random basis”.*

Unquote “

Commission’s findings

2.3.2. The Commission informed that all the power purchase bills submitted by the petitioner for part of the year FY 2011-12 were checked and compared with REA account from WRPC website. The petitioner’s contention on the consideration of losses has been evolved due to the variation of units considered by the petitioner and the Commission for FY 2011-12. The petitioner has contested that the units considered by the Commission are at large variance with the submission of the petitioner and REA which in-turn has affected the calculation of the losses for the FY 2011-12. The Commission has dealt with the issue of variation in units considered for power purchase at para 2.2. Therefore, in view of the clarification provided by the Commission at Para 2.2 this issue does not survive. The Commission also finds that this issue will automatically be redressed during disposal of the petition for true-up of ARR for FY 2011-12 already filed by the petitioner along with petition for Approval of ARR & tariff determination for FY 2013-14.

2.4. Incorrect computation of the refund of FPPCA charges to consumers.

Petitioner’s submission

2.4.1. The petitioner have stated the following:

Quote “

27. *The Hon'ble Commission has approved the category wise revenue billed from retail sales for the financial year 2011-12 at Rs. 1393.73 crores (excluding Rs. 348.30 crores recovered as a part of PPCA variations). However, out of the total FPPCA charges billed during the year 2011-12, the Hon'ble Commission has directed the Petitioner to refund an amount of Rs. 81.11 crores along with the interest rate of 9.5% per annum, which has been computed by the Hon'ble Commission as summarised below:*

- i. *The Commission had approved the power purchase cost of Rs 1342.19 crores for the year 2011-12 in the tariff order dated 13th September, 2011, however the approved power purchase cost in the current tariff order considered by the Hon'ble Commission is at Rs 1609.38 crores (Net of UI sale). The variation in the power purchase cost therefore comes to Rs. 267.19 crores (i.e. Rs 1609.38 crores minus Rs 1342.19 crores) against which the Department has collected 348.80 crores*

ii. *Based on the above, the Hon'ble Commission has computed the refunded amount of Rs 81.11 crores (Rs. 348.80 crores – 267.19 crores). The Hon'ble Commission has also directed the Department to pay interest on the refunded amount at the rate of 9.5% per annum for the number of months starting from April 2012 (i.e. if the PPCA refund is made in the month of August 2012 then interest for 4 months shall be paid) with a direction that this interest expenditure shall not be allowed as a pass through in the ARR of the Petitioner.*

28. *It is respectfully submitted that on the analysis of the UI sale and purchase figures considered by the Hon'ble Commission for FY 2011-12, it is found that the power purchase approved by the Hon'ble Commission is Rs. 1645.18 crores, after disallowing the UI purchase, and further Rs. 35.80 crores of surplus sale under UI has also been deducted from the total power purchase cost of Rs. 1645.18 crores. The Commission has finally considered the power purchase cost of Rs. 1609.38 crores for computation of refunded amount.*

29. *It is submitted that the above issue of the refund amount to be calculated in consequential to the power purchase cost to be approved by the Hon'ble Commission and the mistake that has crept in the calculations as the same has not been made on net UI basis as per the principle decided in the tariff order. Consequently, the quantum of refund to be made by the Petitioner will also substantially reduce.*

30. *It is respectfully submitted that the Hon'ble Commission may be pleased to review the above aspect”.*

Unquote “

Commission's findings

2.4.2. The petitioner has submitted that the Commission has wrongly considered the UI charges and the power purchase cost which has resulted in wrong computation of the refund of FPPCA.

2.4.3. Commission in this regard likes to reiterate that the appropriate clarification & approach followed by the Commission has already been explained in the previous paragraphs regarding the power purchase cost and UI charges. In view of the above, this issue does not survive.

2.5. Interest on FPPCA charges provided by the Hon'ble Commission.

Petitioner's submission

2.5.1. The petitioner have stated the following:

Quote “

31. *It is respectfully submitted that the Hon'ble Commission has granted interest at the rate of 9.5% on the refund to be effected to the consumers with effect from April, 2012 till the date the refund is affected.*

32. *It is respectfully submitted that in the absence of any statutory provision or Regulation in this regard for grant of interest, the Hon'ble Commission may not provide for such interest. This is also considering the circumstances that the tariff petition was filed by the Petitioner in November, 2011, the Petitioner has complied with all the directions in a timely manner and that the Petitioner has only charged such tariff from the consumers as was approved and in accordance with law. Interest ought not to be allowed in such circumstances.*
33. *In the circumstances, being vested with the liability to pay interest to the consumers is onerous to the Petitioner and ought not to be allowed. It is respectfully prayed that the Hon'ble Commission may be pleased to review the impugned order on this aspect”.*

Commission’s findings

2.5.2. Commission likes to place reliance on the relevant provision of Electricity Act, 2003 in this regard

“

62. Determination of tariff

(4) No tariff or part of any tariff may ordinarily be amended more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

(5) The Commission may require a licensee or a generating company to comply with such procedures as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee”.

“ **Unquote [Emphasis supplied]**

The sub-section (4) of section 62 of Electricity Act, 2003 clearly specifies that amount recovered from the fuel surcharge formula is a part of tariff and sub-section (6) of section 62 of Electricity Act, 2003 says that in case of recovery of charge exceeding the tariff by the licensee, the excess amount shall be recovered by the licensee along with interest equivalent to the bank rate. The prevailing bank rate is 9.5% for FY 2012-13, therefore in view of sub-section (5) of section 62 of Electricity Act, 2003; Commission considers it reasonable to give the interest to the consumers due to excess recovery of charge due to fuel surcharge formula from April 2012”.

2.6. Inter-state transmission losses.

Petitioner’s submission

2.6.1. The petitioner have stated the following:

Quote “

34. *The Petitioner had, in the tariff proceedings projected the inter-state transmission losses for the year 2012-13 at 3.90%. These losses represent the losses prevalent in the inter-state transmission which are beyond any control of the Petitioner. It is submitted that the above project was made based on the actual external transmission losses (PGCIL losses) on power purchase for FY 10-11, which was 4.61% and six months of FY 11-12 which was 3.65%.*
35. *The Hon'ble Commission has however only considered the inter-state transmission losses at 3.56% for the year 2012-13. It is respectfully submitted that these losses are wholly outside the control of the Petitioner and ought to be allowed in terms of the projections made, subject to the projections being reasonable.*
36. *It is respectfully submitted that the Hon'ble Commission has granted interest at the rate of 9.5% on the refund to be effected to the consumers with effect from April, 2012 till the date the refund is affected”.*

Unquote “

Commission’s findings

It is to be highlighted that the petitioner has itself shown the trend of reduction in the interstate losses. The first six months of FY 2011-12 show 3.65% as actual losses then there is no point considering 3.9% as considered by the petitioner. However, the Commission has considered the actual figures of regional pool losses of 3.61% during FY 2011-12 as inter-state loss of ED-DNH for FY 2011-12 and approves the same for review of ARR of FY 2011-12.

Further as regards to the losses considered in the FY 2012-13 the Commission has considered losses at the 52 weeks moving average losses as recorded by WRPC. The losses so considered arrived at 3.56%. The Commission as indicated above for FY 2011-12 has considered the actual pooled losses submitted by the petitioner during the technical validation session and in the supplementary submissions after prudence check.

As can be observed from the above, the estimates of inter-state losses considered by the Commission are reasonable in view of the progressive reduction trend seen in the interstate losses in the western region which cannot be ignored. However, the petitioner would not be penalized for the variation in the interstate transmission losses. The Commission also finds that this issue will automatically be redressed during disposal of the petition for true-up of respective ARRs.

2.7. Power Factor Rebate and Surcharge provided by the Hon'ble Commission.

Petitioner’s submission

2.7.1. The petitioner have stated the following:

Quote “

36. *The Hon'ble Commission has in the impugned tariff order has provided for the power factor of the consumer as (a) if, less than 0.90; for every 0.01 of the power factor decrease, only 0.5% of the total units consumed will be charged extra as surcharge at the rate of 500 ps/unit; and (b) all High tension and Extra High Tension installations where the monthly average power factor is maintained above*

0.95 lagging shall be eligible for an incentive in the form of rebate at the rate of 1% of the energy charge for every 0.01 improvement in power factor above 0.95 lagging in the energy charges billed in the month.

37. *It is respectfully submitted that the above calculation has a very substantial adverse impact on the Petitioner in as much as the higher incentives have been allowed on the power factor maintained above 0.95 as against the lower penalty imposed approved on the power factor less than 0.90.*
38. *It is respectfully submitted that the basis and quantum of the calculating the surcharge and the rebate for the power factor ought to be the same and there ought not to be any difference in the calculation. As per the present dispensation, for the purposes of surcharge only 0.5% of the units consumed shall be charged with the surcharge. However, for the purposes of incentive, the rebate is provided at 1% of the total energy charges payable by the consumers for every 0.01 increase over 0.95 lagging.*
39. *The calculation of the rebate on the total energy charges causes a huge financial burden on the Petitioner and consequently on the other consumers. When the surcharge is to be paid only on 0.5% of the units consumed, the surcharge should also be restricted to a certain percentage of the units consumed.*
40. *It is also submitted that based on the formulation provided by the Hon'ble Commission, the provision of 1% for rebate ought to be actually 0.1% on the total energy charges resulting in a 0.5% rebate on the total energy charges if Unity Power factor is achieved.*
41. *Otherwise, the addition burden cast on the Petitioner on account of the above would to the tune of Rs. 5 crores per month and the amount allowed as an incentive has not been considered by the Commission in the net ARR for the financial year 2012-13. It is respectfully submitted that the Hon'ble Commission may consider the above and review the formulation of the power factor surcharge and rebate provided for in the impugned tariff order”.*

Unquote “

Commission's findings

- 2.7.2. Commission is of the view that the petitioner has asked only for penalty for low power factor i.e. imposing penalty for non-efficiency of the consumer in maintaining the power factor at specified value and not being awarded for efficiency in maintaining high power factor. It is against the provisions contained in JERC terms and conditions of determination of tariff Regulations. Further, it is also against the principle of natural justice. It cannot be a one way track. Efficiency and non-efficiency both have to be suitably recognized and rewarded positive or negative as the case may be. Now, the petitioner has submitted the actual billing details of top 25 consumers in HTA and top 25 consumers for HTB for the 3/6 months to make an analysis of the impact of the power factor incentive and surcharge approved in the tariff order dated 31st July, 2012. The Commission has

accepted the data for further analysis. As the effect of the observations on the basis of data provided at this juncture cannot be retrospective and therefore the net effect, if any will be considered at the time of truing up on the basis of actual figures for FY 2012-13”.

2.8. Error in the Fixed Charges for LT Industrial consumers stipulated by the Hon'ble Commission

Petitioner's submission

2.8.1.The petitioner have stated the following:

Quote “

42. *It is respectfully submitted the Fixed charges approved for the LT industrial category above 20 HP at page 226 of tariff order is Rs. 20/- whereas the fixed charges approved in the detailed tariff schedule on page 231 is Rs. 5/- per HP or part thereof for load above 20 HP. The above appears to be a typographical mistake at Page 231 which ought to be corrected.*

43. *It is respectfully submitted the above issues may be considered by the Hon'ble Commission in the review petition as they amount to errors apparent on the face. It is also respectfully submitted that there are even otherwise sufficient cause for review of the order dated 31.7.2012 passed by the Hon'ble Commission”.*

Unquote “

Commission's findings

2.8.2.Commission accepts this submission of the petitioner. The fixed charges approved for the LT industrial category above 20 HP is Rs. 20 per HP and not Rs. 5 per HP. Therefore the same shall be read as Rs. 20 per HP instead of Rs. 5 per HP on page no. 231 in accordance with the tariff approved for FY 2012-13 on page no. 226 of the order dated July 31'2012.

In the light of above facts and circumstances, discussion and observations as well as findings of the Commission the Petition filed by ED-DNH seeking review of its Order dated July 31'2012 on various counts is disposed of accordingly”.

Sd/-
(S.K.Chaturvedi)
Member

Sd/-
(Dr. V.K.Garg)
Chairperson