



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

R. P. (SR) No. 85 of 2022

in

O. P. No. 03 of 2022

Dated 30.08.2022

Present

Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Transmission Corporation of Telangana Limited

... Review Petitioner

The review petition came up for hearing on 22.08.2022. Sri G. Srinivas, FA & CCA & CPO for review petitioner along with Sri A. Vivekanand, Chief Engineer/ Comml. & RAC, TSTransco have appeared on 22.08.2022. The review petition having been heard and having stood for consideration to this day, the Commission passed the following:

ORDER

1. The Transmission Corporation of Telangana Limited (TSTransco or Review petitioner) has filed the review petition (RP) on 21.06.2022 under Section 94(1)(f) of the Electricity Act, 2003 seeking review of the Commission Order dated 07.04.2022 in O. P. No. 03 of 2022 in the matter of Annual Performance Review (APR or True up) for FY 2020-21 for Transmission business of TSTransco filed in compliance of directive No. 3 of Transmission Order dated 20.03.2020 for 4th control period (FY 2019-20 to FY 2023-24) read with Regulation No. 5 of 2005 as adopted by the Commission in TSERC (Adoption) Regulation No.1 of 2014.

2. The Commission in its Order dated 07.04.2022 in O. P. No. 03 of 2022 carried out the APR for FY 2020-21 for transmission business of TSTransco. The review petitioner filed the instant Petition seeking review of the said Order with the following prayer:

- a) to consider the instant review Petition of TSTRANSCO and to take on record.
 - b) to review the order dated 07.04.2022 passed in Petition, O.P.No.03 of 2022 with respect to 5% Capitalization disallowed citing discrepancies of Depreciation, tax on Income, Surcharge on WACC and Adjustment of Surplus (Deficit) as claimed by the petitioner in the instant petition.
3. The contentions of the review petitioner in the review petition are as under:
- a. TSTransco has filed APR towards true up of Transmission Business for FY 2020-21 on 31.12.2021 in compliance to new directive No.3 of 4th Multi-Year-Tariff (MYT) Order control period (i.e., from FY 2019-20 to FY 2023-24) with a claim of Regulatory Receivable of Rs.51.29 crore.
 - b. As per Clause 3.13.4 of Tariff Order for 4th MYT period dated, 20.03.2020 issued by the Commission “*any variations in expenses as claimed in Annual Performance Review and actual as per audited values for the respective year may be claimed in the true-up of the entire control period.*”
 - c. The Commission has passed APR for FY 2020-21 on 07.04.2022 in respect of Transmission Business and approved the revenue surplus of Rs. 173.93 crore as against review petitioner’s claim of Rs. 51.29 crore based on audited Annual Accounts of FY 2020-21.
 - d. Further, the Commission directed the review petitioner to include the approved revenue surplus of Rs.109.04 crore (revenue gap of Rs.64.89 crore on APR for FY 2019-20 and revenue surplus of Rs. 173.93 crore on APR for FY 2020-21) in its APR filings for FY 2021-22 and propose the recovery/adjustment mechanism of the total revenue gap / (surplus) (for FY 2019-20 and FY 2020-21) so as to take an appropriate view by the Commission on the same after prudence check of the APR filings for FY 2021-22.
 - e. As per Clause 32 of TSERC Regulation No.2 of 2015, the review petitioner has decided to file a review petition before the Commission as against APR orders on transmission business for FY 2020-21 passed by the Commission on 07.04.2022.
 - f. The issue wise submissions of the review petitioner in the review petition are as under:

Issue No.1: Capitalisation

The Commission noted that TSTransco has claimed capitalisation amount of Rs. 1342.10 crore for FY 2020-21. The Commission has scrutinized the details of capitalization during FY 2020-21 along with PCCs and FCCs submitted by the TSTransco. The Commission finds that the TSTransco has not submitted the Electrical Inspector Certificates for the works completed in FY 2020-21. Therefore, the Commission, in the absence of Electrical Inspector Certificates is inclined to withhold 5% of the actual capitalization for FY 2020-21, and it shall be allowable on submission of the complete details of capitalisation and after prudence check of the same. TSTransco has pleaded for review on the following grounds:

- i) TSTransco has submitted complete capitalization details for FY 2020-21 as directed by the Commission along with PCCs & FCCs vide clause 4.4.2 of 4th MYT order dated 20.03.2020 and in compliance to directive No.6. Further, it is stated that the assets are being capitalised based on self certification PCCs furnished by the concerned Superintending Engineers on completion of the projects.
- ii) TSTransco further stated that the Government of Telangana State (GoTS) has issued a notification vide G. O. Ms. No. 10 dated 09.05.2022 by exercising its powers by allowing TSTransco for Self-Certification of its own installations irrespective of the voltage before commencement of supply as per regulation 30 and 423 of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and granted exemption of electrical installations from testing and Certification by the State Electrical Inspector.
- iii) In view of the above TSTransco requests the Commission to issue revised APR orders for FY 2019-20 and FY 2020-21 by releasing 5% withheld capitalization amount and its corresponding financial impact, regarding RoCE, Depreciation and Tax on RoE, etc., based on revised RRB as per Regulation No.5 of 2005 with applicable carrying cost pertaining to 3rd control period (FY 2014-15 to FY 2018-19) and for 4th control period (i.e., for FY 2019-20 and FY 2020-21).

iv) Below is the year wise detailed calculation of approximate financial impact on revenue consequent to withholding of 5% on capitalisation amount for 3rd control period (i.e., FY 2014-15 to FY 2018-19) and for 4th control period (i.e., for FY 2019-20 and FY 2020-21):

Financial Year	2014-15	2015-16	2016-17	2017-18	2018-19	Total 3 rd MYT Period	2019-20	2019-20
Claimed (Actuals)	689.48	1947.38	1789.21	1982.20	3589.79	9998.06	2729.10	1342.03
Approved	655.01	1850.01	1699.75	1883.09	3410.30	9498.16	2561.10	1274.93
Difference in additions	34.47	97.37	89.46	99.11	179.49	499.90	168.00	67.10
Increase in opening GFA		34.47	34.47	34.47	34.47		34.47	34.47
			97.37	97.37	97.37		97.37	97.37
				89.46	89.46		89.46	89.46
					99.11		99.11	99.11
							179.49	179.49
								168.00
Less Depreciation @5.28% (CERC)	1.82	5.14	4.72	5.23	9.48	26.39	8.87	3.54
		1.82	1.82	1.82	1.82	7.28	1.82	1.82
			5.14	5.14	5.14	15.42	5.14	5.14
				4.72	4.72	9.45	4.72	4.72
					5.23	5.23	5.23	5.23
							9.48	9.48
								8.87
Increase in RRB	16.32	78.76	167.25	256.55	388.50	907.39	553.07	664.41
Approved RoCE rate	11.43%	10.53%	10.49%	9.64%	9.31%		11.29%	11.24%
RoCE amount	1.87	8.29	17.54	24.73	36.17	88.61	62.44	74.68
Tax on Return on Equity	0.11	0.51	1.08	1.66	2.52	5.88	2.90	3.49
Depreciation	1.82	5.14	4.72	5.23	9.48	26.39	8.87	3.54

Financial Year	2014-15	2015-16	2016-17	2017-18	2018-19	Total 3 rd MYT Period	2019-20	2019-20
		1.82	1.82	1.82	1.82	7.28	1.82	1.82
			5.14	5.14	5.14	15.42	5.14	5.14
				4.72	4.72	9.45	4.72	4.72
					5.23	5.23	5.23	5.23
							9.48	9.48
								8.87
Total						158.26	100.61	116.98
Add: Carrying cost @ 9.85%						7.79	4.96	5.76
Total						166.05	105.57	122.74

It can be seen from the above table, that due to withholding of 5% actual capitalization amount by the Commission, there is a reduction in total ARR of the TSTransco by Rs.394.36 crore (Approx.) upto FY 2020-21, which resulted in increase of special appropriation amount of Rs.166.05 crore for 3rd MYT control period (FY 2014-15 to FY 2018-19) and Rs. 228.31 crore for 4th MYT control period (FY 2019-20 & FY 2020-21) in terms of accumulated RoCE, Income Tax on RoE and Depreciation.

Issue No.2: Depreciation

The review petitioner has claimed that the depreciation was calculated by considering the rates of depreciation as notified in CERC (Terms and Conditions of Tariff) Regulations, 2019. While calculating depreciation the review petitioner has considered opening GFA and during the year additions also but, the Commission has computed the depreciation considering the approved opening GFA for FY 2020-21 in accordance with provisions of the Regulation No. 5 of 2005. TSTransco has pleaded for review on the following grounds:

- i. TSTransco has submitted and claimed depreciation amount of Rs. 857.78 crore which is computed as per rates notified in CERC (Terms and Conditions of Tariff) Regulations, 2019 by duly complying

with the Commission directive No.5 of 4th MYT order (FY 2019-20 to FY 2023-24).

ii. As per Regulation No. 33 of CERC (Terms and Conditions of Tariff) Regulations, 2019 depreciation is computed from the date of commercial operation of a transmission system and followed the same in Annual Accounts from FY 2020-21.

iii. In view of the above the Commission is hereby requested to allow the depreciation on the assets capitalized from the date of commercial operation of a transmission system in accordance with the CERC (Terms and Conditions of Tariff) Regulations, 2019 instead of allowing depreciation on opening GFA as per Regulation No. 5 of 2005 which is framed as per MOP guidelines.

Issue No.3: Tax on Income

As per the provisions of Regulation No.5 of 2005, the tax on income allowable in ARR shall be limited to tax on RoE component computed based on the equity component of the RRB at Minimum Alternate Tax (MAT). Accordingly, the Commission is requested to consider the tax on revised RRB duly releasing 5% withheld capitalization amount from FY 2014-15 to FY 2020-21.

Issue No.4: Cost of Debt (WACC)

The Commission has worked out the cost of debt of 10.32% for FY 2020-21 as against TSTransco claim of 11.95% by considering the working capital for the year has been considered as equivalent of 45 days of net O&M expenses. Therefore, the Commission has considered the cost of debt as 10.32% and cost of equity as 14%, same as that approved in the MYT order. TSTransco has pleaded for review on the following grounds:

i. The Commission is requested to allow actual cost of debt as per the rates claimed by the TSTransco in full as the average collection period of TSTransco is 170 days (Approx.), which is beyond a period of working capital for 45 days as approved in the RoCE calculation.

ii. Further, it is stated that TSTransco is also eligible to claim surcharge on delayed receivable for the period more than 45 days as

per Clause 59 of CERC (Terms and Conditions of Tariff) Regulations, 2019.

“In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long term customers as the case may be, beyond a period of 45 days from the date of presentation of bills, a late payment surcharge at the rate of 1.50% per month shall be levied by the generating company or the transmission licensee, as the case may be.”

iii. In view of the above, following is the position of receivables by TSTransco from TSDiscoms towards transmission charges and surcharge on delayed receivables for the period more than 45 days as on March 31, 2021;

Surcharge on Late Receivable from TSDiscoms

Particulars	Amount (Rs. in crore)
Opening Receivables	723.40
Closing Receivables	1,434.38
Average Receivables for the year	1,078.89
Average 45 days receivables	
Receivables for the year (Total Bills raised)	2,317.56
Receivables for 45 days	285.73
Average Collected period (in days)	169.92
Receivables in excess of 45 days receivables	793.16
Monthly rate of interest	1.50%
No. of months [(170-45)/30] of delay	4.17
Total Surcharge Amount	49.61

iv. From the above, it can be seen that TSTransco is eligible to claim for an amount of Rs. 49.61 crore towards surcharges on delayed receivables for more than 45 days as per Regulation 59 of CERC (Terms and Conditions of Tariff) Regulations, 2019.

- v. In this regard TSTransco request the Commission to issue appropriate orders to the TSTransco to raise the surcharge amount from TSDiscoms towards delayed receivables by raising separate invoices.

Issue No.5: Recovery of Revenue Gap (Surplus)

In 4th MYT order dated, 20.03.2020 issued by the Commission wherein, it was directed that any variations in expenses as claimed in APR as per the actual audited values for the respective year may be claimed in the True-up of the entire control period vide Clause 3.1.3.4.

Accordingly, the Commission is requested to adjust/recover the approved revenue gap / (Surplus) of entire 4th control period if any, out of APR of next control period as special appropriation in three (3) financial years instead of lumpsum in one financial year to enable the review petitioner to adjust the same.

4. The Commission heard the representatives of the review petitioner. It also perused the relevant material including the original order passed by the Commission. During the hearing held on 22.08.2022, the review petitioner submitted as under:

Record of proceeding dated 22.08.2022

“The representative of the review petitioner has made detailed submissions as to why review of the order passed by the Commission is required. He also sought to explain why review should be undertaken in the matter in accordance with the provisions of the law.”

5. Now, the point that has come up for consideration in this matter is –
‘Whether the APR order dated 07.04.2022 in O.P.No.03 of 2022 in the matter if Annual Performance Review (APR or True-up for FY 2020-21 for Transmission business of TSTransco, is liable for review as sought by the review petitioner?’

6. The issue wise analysis of the review petitioner’s submissions and the Commission’s decision on the same is as under:

Issue No.1: Capitalisation

a. The electrical installations and apparatus of voltage exceeding 650 Volt require inspection and statutory approval by the Electrical Inspector before installation in accordance with the provisions of the Electricity Act, 2003, the Central Electricity Authority (Measures relating to safety and electric Supply) Regulations, 2010 (CEA Regulations) and as part of the functions of the Department of Electrical Inspectorate, Government of Telangana State (GoTS). The Government of Telangana (GoTS) had issued G. O. Ms. No. 10, dated 09.05.2022 by exercising its powers under the Electricity Act, 2003 duly allowing TSTransco to undertake Self-Certification of its own installations irrespective of the voltage before commencement of supply as per clauses 30 and 43 of CEA Regulations, thus granting exemption of electrical installations from testing and certification by the State Electrical Inspector. This relief is not available at the time of original proceedings, whereas it is actually a post affect upon and after issue of the Annual Performance Review order for FY 2020-21 in O. P. No. 03 of 2022 on 07.04.2022. Therefore, the present prayer of the review petitioner for waiver of submission of Electrical Inspector Certificates and to allow capitalisation in full and release of 5% withheld amount cannot be acceded to.

b. The Commission notices that the review petitioner has also sought for revised orders on annual performance in so far as FY 2019-20 and FY 2020-21 also by considering the above modification to give effect to claim of 5% capitalization amount withheld and its corresponding financial impact regarding RoCE, Depreciation and Tax on RoE, etc., by arriving at revised Regulatory Rate Base (RRB) in accordance with applicable regulation being Regulation No. 5 of 2005 by giving benefit of applicable carrying cost pertaining to 3rd control period (FY 2014-15 to FY 2018-19) and for first two year of 4th control period (FY 2019-20 and FY 2020-21).

c. The Commission considers that all these financial impacts are linked to the issue of capitalization viz., upon releasing of claim of 5% capitalization amount withheld. The Commission opines that the relief sought for in the review petition cannot be considered as it does not constitute or fit into the ingredients of review.

d. Therefore, the Commission does not find any infirmity in the order passed by it nor it calls for interference by way of review. None of the ingredients of reviewing an order as set out in Order 47 of Civil Procedure Code have been satisfied in this case. The review petitioner has not been able to show as to the following aspects for undertaking a review of the order.

- i. Where there is a typographical mistake that has crept in the order;
- ii. When there is an arithmetical mistake that has crept in while effecting calculation or otherwise;
- iii. When there is a mistake committed by Commission, which is apparent from the material facts available on record and/or in respect of application of law;
- iv. When the Commission omitted to take into consideration certain material facts on record and 'law on the subject' and that if on taking into consideration those aspects, there is a possibility of Commission coming to a different conclusion contrary to the findings given;
- v. If the aggrieved party produced new material which he could not produce during the enquiry in spite of his best efforts and had that material or evidence been available, the Commission could have come to a different conclusion;

7. In view of the above, the Commission views is not inclined to review the order dated 07.04.2022 in O. P. No. 03 of 2022 and accordingly the present review petition is dismissed as not maintainable.

This Order is corrected and signed on this the 30th day of August, 2022.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M.D.MANO HAR RAJU) MEMBER	Sd/- (T.SRIRANGA RAO) CHAIRMAN
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