



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 513/2015/

PETITION NO. 17/2015

ORDER SHEET

04.11.2015 Before the Assam Electricity Regulatory Commission
ASEB Campus, Dwarandhar,
G. S. Road, Sixth Mile, Guwahati – 781 022
Petition No. 17/2015
Assam Electricity Grid Corporation Limited

----- Petitioner

In the matter of

Review petition filed by Assam Electricity Grid Corporation Limited under Regulation 34 Chapter-VII of AERC (Conduct of Business) Regulations 2004 seeking review and / or modification of Tariff Order dated July 24, 2015 of the Hon'ble AERC for tariff of the FY 2015-16 and True-up of FY 2013-14.

CORAM

Shri Naba Kumar Das, Chairperson

Shri Dipak Chakravarty, Member

ORDER

1. The Assam Electricity Grid Corporation Limited(hereinafter referred to as the 'Petitioner' or 'AEGCL') had filed the petition (Petition No.2/2015) for True-up for FY 2013-14, APR for FY 2014-15 and approval of the ARR for FY 2015-16 and corresponding tariff adjustments on January 31, 2015 under Section 62 of the Electricity Act, 2003.
2. The Commission, on preliminary scrutiny, found that the above Petitions filed by the AEGCL were incomplete with regard to some material information. Therefore, additional data and clarifications on the Petition were sought, from the AEGCL from time to time and replies were received. Accordingly, AEGCL submitted the revised petition which was admitted on April 10, 2015.
3. The Commission after taking the due process has issued order dated July 24, 2015, for true-up for FY 2013-14, Annual Performance Review for FY 2014-15, and revised ARR and Transmission Tariff for FY 2015-16,making the new tariff effective from August 1, 2015.

4. AEGCL has prayed for review of the Order of FY 2015-16 on the following issues:
 - A. Prayer for Review under Truing-up for FY 2013-14
 - i. Interest and Finance Charges
 - ii. Depreciation
 - iii. Net prior Period Expense/Credit
 - B. Prayer for Review under ARR for FY 2015-16
 - i. PGCIL Charges
 - ii. Depreciation
 - iii. Return on Equity
5. The AERC (Conduct of Business) Regulations, 2004 specifies as under with respect to Review of the decisions, directions and orders of the commission:

“34. Review of the decisions, directions and orders

 - i. Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, 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 decision/ order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.”*
 - ii. An application for review shall be filed in the same manner as a petition under Chapter II of these regulations.*
 - iii. When it appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.*
 - iv. The application for review shall be accompanied by such fee as may be specified by Commission.”(emphasis added)*
6. The Commission notes that the Review Petition was filed on October 06, 2015, which is after 73 days from the date of issue of the Order dated July 24, 2015. As such, the petition is barred by law of limitation.
7. Assam Electricity Regulatory Commission (Payment of Fees etc.) Regulations, 2015 provides for the option of filing a petition for condonation of delay along with prescribed fee. However, AEGCL has not filed any separate petition for condonation of delay along with the review petition.
8. Further, AEGCL has not presented any justifiable reason for such delay in the submission of the review petition showing that AEGCL did not have “sufficient cause” for not submitting the review petition on time which is one of the necessary conditions for consideration of the condonation of delay.
9. The Commission, vide its notice dated October 29, 2015, scheduled a Hearing prior to the admission of the petition at 11 A.M. on November 2, 2015.

10. The Commission conducted the hearing on the scheduled date at the Office of the Commission. Shri S.K.Saha, CGM(F&A), Shri D.Goswami, AGM, Shri S.Kaimal, AM (F&A) and Shri D.Paul, A.O. appeared on behalf of the Petitioner. The Chairperson initiated the hearing on admissibility of Review Petition and asked the Petitioner to explain why a separate petition for condonation of delay along with the review petition was not filed. The Chairperson further stressed on the need for following the prescribed procedure while filing the petition.
11. Shri Saha, stated that the review petition was delayed as the matter was placed before the Board and the Board Meeting was held on September 29, 2015 after which it was decided to file the review petition and the petition was consequently filed on October 06, 2015. On the query of the Hon'ble Chairperson, as to why the Board Meeting could not be held earlier, Shri Saha stated that the Board Meeting was delayed due to unavailability of dates from Chairman, AEGCL.
12. The Commission is of the view that the submission of the petitioner that the delay in filing of petitions has happened due to delay in arranging Board Meeting due to unavailability of suitable dates from Chairman, AEGCL, is not a sufficient ground for condoning the delay in filing of the petitions.
13. Further, no proper justification could be provided by the petitioner on why a separate petition for condonation of delay along with the review petition was not filed.

Commission's Analysis and Decision:

1. The Commission heard the petitioner and recorded the submissions made. However, AEGCL could not submit any suitable justification for -
 - i. Not submitting the review petition in time.
 - ii. Not filing a separate petition to condone the delay in filing of review petition along with the review petition.
 - iii. Not submitting sufficient grounds for delay in filing of petition.
2. On the above grounds, the Review Petition is not admitted.

With the above observations and decisions, the review petition filed by AEGCL stands disposed of.

Sd/-
(D. Chakravarty)
Member, AERC

Sd/-
(N. K. Das)
Chairperson, AERC