ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. AEGCL/MYT2010-13/REVIEW/335(B)/Pt-I PETITION NO. 04/2012

ORDER SHEET

18.05.2012

Before the Assam Electricity Regulatory Commission

ASEB Campus, Dwarandhar,
G. S. Road, Sixth Mile, Guwahati – 781 022

Petition No. 04/2012

Assam Electricity Grid Corporation Limited

------ Petitioner

In the matter of

Review petition filed by Assam Electricity Grid Corporation Limited under section 94(f) of Electricity Act, 2003 read with Regulation 34(1) of AERC (Conduct of Business) Regulations 2004 seeking review and / or modification of MYT order 2010-13 dated 16th May 2011.

CORAM

Shri J. Barkakati, Chairperson
Dr. R. K. Gogoi, Member
Shri T. Chatterjee, Member

ORDER

The present review petition was filed by the petitioner seeking the following reliefs:

1. To review the following financial parameters for FY 2011-12 under MYT order 2010-13 dated 16th May, 2011 passed by the Commission for the control period from FY 2010-11 to 2012-13 on petition No. 07/2010,

   (a) Employee cost

   (b) Repair and Maintenance expenses

   (c) Depreciation

2. Assam Electricity Grid Corporation Limited had filed its petition under Multi Year Tariff for approval of the Annual Revenue Requirement for the period from 1st April, 2010 to 31st March 2013, True up of period from 1st April 2007 to 31st March 2009 in accordance with the Assam Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2006.

   2.1 The petitioner filed the petition for truing up of ARR for FY 2007-08 and FY 2008-09 and determination of ARR for the control period FY 2010-11 to 2012-13 on 15/02/2010 (Petition No. 7/2010) Under

Section 62 of the Electricity Act, 2003. The Commission passed an order on 16th May, 2011. The Petitioner here is praying for review of the order passed by the Commission on 16th of May, 2011.

2.2 The present petition was filed on 9th August, 2011 to review the order passed in case No. 7/2010.

The Commission examined the petition carefully and admitted the petition on 04.04.2012. The Commission then took a hearing on 25.04.2012 in its office at Six Mile after due notice to the petitioner.

Shri D.P. Das, MD, AEGCL, Shri B. Paul, CGM, Shri S.K. Saha, CGM (F&A), Shri D. Goswami, AGM, AEGCL, and Shri I.M. Gangopadhyay, AMA appeared on behalf of the petitioner in the hearing.

Chairperson, AERC initiated the hearing with a brief background of the petition of AEGCL and directed the petitioner to submit their case. The petitioner reiterated the grounds on which review and modifications were sought for. The Commission heard the petitioner and recorded the submissions made. The submissions made by the petitioner along with the Commission's analysis and decisions arrived at are discussed in the following paragraphs issue-wise:

1. Employee cost for FY 2011-12

AEGCL submission

AEGCL submitted that the AERC has considered the employee cost of Rs. 75.18 crore for FY 2011-12 as against Tariff Petition filed by AEGCL for Rs. 85.44 crore and the amount approved is not adequate to meet employee's cost. It is further submitted that from the current trend of 1st quarter of FY 2011-12, it is estimated that the actual requirement will not be less than Rs. 92.00 crore. AEGCL has given the break up of costs under various heads and requested for approval of Rs. 85.44 crore as filed in the petition.

Commission Analysis and Decision

The Commission approved the employee cost for FY 2010-11 to 2012-13 as under:

Year	Amount (Rs. crore)
2010-11	69.61
2011-12	75.18
2012-13	81.19

The approval of the Commission is based on the following as explained in the Tariff Order:

As per annual accounts during FY 2008-09 (actuals) the employee cost was Rs. 92.13 crore which includes Rs. 38.91 crore towards arrears due to pay revision. The employee cost excluding arrears account to Rs. 53.22 crore and the actual employee cost during the year 2009-10 was Rs. 64.45 crore an increase of 21% over the actuals (Rs. 53.22 crore). The employee cost during 2009-10 includes the provision for incremental amount towards pay revision. It is considered by the Commission that 8% increase over the expenditure of Rs. 64.45 crore during 2009-10 is reasonable to meet the normal increments and increase in DA. Accordingly approved the expenditure for FY 2010-11 as given above and 8% increase is considered for FY 2011-12 and FY 2012-13 also.

The employee cost and other O&M expenses are controllable item and the utility has to control the costs. Hence, no revision is considered.

2. Repairs and Maintenance (R&M) expenses for FY 2011-12

AEGCL's submission

AEGCL submitted that R&M amount approved by AERC for FY 2011-12 is Rs. 9.56 crore as against tariff petition of Rs. 21.56 crore. It is stated that the financial clearance of O&M work for FY 2010-11 was Rs. 11.00 crore in addition to monthly fixed O&M for the year was Rs. 2.00 crore. Although as per accounts the actual booking under R&M works during 2010-11 was Rs. 7.35 crore against committed liability of Rs. 13.00 crore.

AEGCL has submitted that during 2010-11 assets worth Rs. 344.18 crore were created which includes ADB funded projects and R&M expenses approved by the Commission will not be adequate to meet R&M expenses of such a huge asset addition and requested to allow prayed amount of Rs. 21.56 crore.

Commission Analysis and Decision

The R&M expenses approved by the Commission for the MYT are as under:

Year	Amount (Rs. crore)
2010-11	8.69
2011-12	9.56
2012-13	10.51

The Commission has analysed the expenses projected by AEGCL and approved the above amounts based on the following as explained in the Tariff Order.

The R&M expenses for FY 2008-09 were Rs. 8.72 crore (actuals). The R&M expenses for FY 2009-10 as per provisional accounts are Rs. 7.90 crore against approval of Rs. 17.53 crore. Considering the vintage of the assets, the Commission considered an increase of 10% over the expenses of FY 2009-10 and 10% increase there on every year. This is considered quite reasonable considering the past trend in expenditure. The new assets added during FY 2010-11 do not require any major maintenance. This is a controllable item and the utility has to find measures to control the expenditure, if any extraordinary expenditure is incurred under this head during FY 2011-12, the utility may claim in true up with detailed justification.

3. Depreciation charges for FY 2011-12

AEGCL's submission

AEGCL submitted that In the Tariff Order the Commission has not allowed depreciation on assets created out of Government grant. It is mentioned in the Tariff Order "As per Regulations, the consumer contribution on capital subsidy / grant etc shall be excluded from the asset value for the purpose of depreciation". AEGCL has further mentioned that the company has not received any grants from any consumer but from State Government as promoter's contribution.

AEGCL has pleaded, that where the Government grants are of the nature of promoter's contribution *i.e* they are given with reference to the total investment in an undertaking or by way of contribution towards its capital outlay, the grants are treated as capital reserve which can be neither distributed as dividend nor considered as deferred income. Also, the Government grants are to be converted as equity share of the owner of the company. Since AEGCL is a Government company, Government grants towards cost of capital assets are contribution of the owner / promoter (i.e. State Government) towards capital of the company.

Fund brought in by the ‘owner’ cannot be construed as meeting a portion of the cost. Hence, in terms of AS-12 Government grants have been treated as capital receipt and taken to capital reserve and treated as part of shareholders funds.

Commission Analysis and Decision

The contention of AEGCL is that the contribution of the Government is towards capital of the company as owner / promoter.

If it is so, then it should be either share capital or share deposit. The balance sheet for FY 2009-10 does not reflect any increase in the share capital or share deposit. Any contribution towards equity should be declared by the State Government, the owner of the company and shall declare the induction of amount as additional equity in the company. The company cannot consider the amount of grants released by the Government for works as equity inducted.

Hence the decision of the Commission in the Tariff Order does not warrant reviewing of its earlier decision.

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

Sd/-	Sd/-	Sd/-
(T. Chatterjee)	(Dr. R. K. Gogoi)	(J. Barkakati)
Member, AERC	Member, AERC	Chairperson, AERC