



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 335/2010/A/Pt-I

PETITION NO. 03/2012

ORDER SHEET

18.05.2012

Before the Assam Electricity Regulatory Commission

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

Petition No. 03/2012

Assam Power Distribution Company Limited

— Petitioner

In the matter of

Review petition filed by Assam Power Distribution Company 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 of the MYT order 2010-13 dated 16th May, 2011 passed by the Commission for the control period FY 2010-11 to 2012-13 on petition No. 06/2010,
 - (a) Non-recognition of Regulatory Assets created in the Tariff Order for FY 2007-08 and Tariff Order for FY 2008-09 & 2009-10
 - (b) Revenue gap in the truing up for FY 2008-09
 - (c) Revenue gap for FY 2010-11 to be recovered in the remaining two years of control period
 - (d) Interest on term loans
 - (e) Interest on working capital
 - (f) Depreciation
 - (g) Provision for doubtful debts
 - (h) Return on Equity

2. Assam Power Distribution Company 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 trueing 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 01/02/2010 (Petition No, 6/2010) Under Section 62 of the Electricity Act, 2003. The Commission passed an order on 16th May, 2011.

2.2 The present petition was filed on 13th July, 2011 to review the order passed in case No. 6/2010.

The Commission examined the petition carefully and admitted the petition on 04.04.2012. The Commission then took a hearing on 26.04.2012 in its office at Six Mile after due notice to the petitioner.

Shri P.K. Dutta, CGM (Com), Shri S. Baruah, GM (Com-T), Shri S.N. Kalita, GM(F&A) , Shri M.K. Adhikary DGM (Com) and N.Deb, A.O., APDCL appeared on behalf of the petitioner in the hearing.

Chairperson, AERC initiated the hearing with a brief background of the petition of APDCL 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. Non Recognition of Regulatory Assets created by the Commission in Tariff orders for FY 2007-08, 2008-09 and 2009-10

Submission of APDCL

APDCL submitted that in the Tariff orders for FY 2007-08, FY 2008-09 and 2009-10 the Commission created regulatory assets after recognizing the additional liabilities on account of additional power purchase costs to tide over the deficit and to reduce impact of tariff hike. In page 174 of Tariff order 2007-08, the Commission recognized an amount of Rs. 216.22 crore and 1/3rd of the amount was allowed to be recovered through tariff for the FY 2007-08.

Similarly in Tariff order for FY 2008-09 and 2009-10 in page 194 Chapter 6.18 the Commission after recognizing regulatory assets, allowed to recover @ Rs. 72.07 crore for FY 2008-09 and Rs. 75.72 crore for FY 2009-10. However in the trueing up exercise the Commission totally ignored the above amount while computing the trueing up for FY 2007-08 and FY 2008-09.

It is further submitted by APDCL that the presence of the recognized regulatory assets had resulted deficit in the balance sheets of the respective years beyond the control of the company which should be allowed to be recovered in the subsequent years to regain the financial health of the company.

APDCL has also mentioned that CERC has allowed all CSGS to recover all past liabilities on account of tariff revision from the utilities with interest at PLR from the beneficiaries as per the Tariff Regulations for the control period FY 2009-14.

Commission Analysis and Decision

The Commission recognized an amount of Rs. 216.22 crore in the Tariff Order for FY 2007-08 (Chapter 6, P 174) towards past period fuel and power purchase cost adjustment and truing up of Tariff Order for FY 2005-06. The Commission approved an amount of Rs. 72.07 crore for FY 2006-07 in the ARR calculation for FY 2007-08 being one third of Rs. 216.22 crore and the balance was kept as regulatory asset to be adjusted in the ARR of ASEB in FY 2008-09 and FY 2009-10 after prudent comparison of the approved T&D loss figures of the Tariff Order for FY 2006-07 with that of audited figures for FY 2006-07.

The Commission in para 6.18 of Tariff Order for FY 2008-09 and 2009-10, based on detailed analysis, revised the figure of Rs. 216.22 crore to Rs. 219.86 crore towards past period fuel and power purchase cost adjustment after considering the actual power purchase cost, prior period amount and an amount against truing up of Tariff Order for FY 2005-06. The Commission having approved an amount of Rs. 72.07 crore for FY 2006-07 in the ARR calculation of FY 2007-08 being one third of the recognized amount of Rs. 216.22 crore the balance amount of Rs. 147.79 (219.86 – 72.07) crore was kept as regulatory asset and adjusted Rs. 72.07 crore in the ARR of ASEB for FY 2008-09 and Rs. 75.72 crore in the ARR for 2009-10 in the Tariff Order for FY 2008-09 and 2009-10.

In the tariff Order for 2008-09 & 2009-10 (Section 6.18, P 194), the Commission had also carried out detailed component wise analysis of the past period fuel and power purchase cost adjustment for FY 2007-08, and accordingly recognized an amount of Rs. 45.19 crore towards power purchase cost and recovered Rs. 22.59 crore in the ARR FY 2008-09 and FY 2009-10 as deficit for power purchase cost for FY 2007-08. The details are given in the table below:

Table: Past period fuel and power purchase cost adjustment for FY 2006-07 and FY 2007-08

		(Rs. crore)		
		Approved for recovery in Tariff Order for		
		2007-08	2008-09	2009-10
Power purchase liability for FY 2006-07	219.86	72.07	72.07*	75.72
Power purchase liability for FY 2007-08	45.19	-	22.59	22.59
Total	265.05	72.07	94.66	98.32

* This amount was shown by APDCL as Rs. 80.50 crore in the petition (P 28, Table 3.5 of Volume-I).

However, the APDCL in its revised claim for FY 2007-08 and FY 2008-09 in the truing up has not made any mention about the regulatory asset towards past period fuel and power purchase cost for the years FY 2006-07 and FY 2007-08 in the truing up for FY 2007-08 and FY 2008-09. Regulatory asset and its amortization should have appeared as a distinct item in the ARR for the year for which truing up is sought for. Having created the regulatory asset and since Tariff Order for FY 2010-11 has already been issued, the Commission will take into consideration the regulatory asset created earlier along with truing up for FY 2009-10 in the Tariff Order for FY 2011-12 / 2012-13 along with carrying cost after thorough prudent check.

2. Gap in the truing up for FY 2008-09

Submission of APDCL

APDCL further submitted that from the truing up for FY 2008-09, it is noted that there is gap to the extent of Rs. 32.78 crore after taking into account the revenue surplus in the truing up for FY 2007-08. This gap is not allowed to be recovered in the present tariff order and decided that it will be carried forward to the ARR for FY 2009-10 while truing up of ARR for FY 2009-10 is carried out. By this order another amount is added in the Regulatory assets which in no way will help to improve the functioning of the company.

Commission's Analysis and Decision

The Commission has approved the gap of Rs. 32.78 crore in the truing up for FY 2008-09 to be carried forward to the ARR for FY 2009-10, while truing up of ARR for FY 2009-10 is carried out. Commission has decided to consider this in the Tariff Order for FY 2011-12 / 2012-13

3. Revenue gap for FY 2010-11

Submission of APDCL

APDCL submitted that as the FY 2010-11 is already over, the estimated revenue gap of Rs. 131.15 crore, recognized by the Commission is already burdened the APDCL without any modalities to recover the amount to tide over the liabilities arising out of operation for FY 2010-11. The Commission had taken into consideration the estimated average revenue gap of control period FY 2010-13 and calculated the hike of tariff by estimated energy of FY 2010-11. Considering that the FY 2010-11 is already passed, the Commission should have considered allowing recovery of approved revenue gap within the remaining two years of control period of MYT.

Commission's Analysis and Decision

The overall revenue gap estimated for the control period FY 2010-11 to 2012-13 is about Rs. 260 crore. The additional revenue expected on account of revision of tariffs effective from 24th May 2011 must have been assessed by this time as the revised tariffs have already been implemented. The Commission had made certain suggestions for improving the efficiency in operations which may translate into reduction in T&D losses, commercial losses etc. Based on the additional revenue and the impact of efficiency improvement measures the Commission will take an overall view at the time of determination of tariff for the year 2012-13 on the erstwhile revenue gap.

4. Interest on Term Loan (All)

Submission of APDCL

APDCL submitted that the Commission has not considered interest on ASE Bonds as per actual schedule of payment submitted in the petition (Page No. 23, 24, Vol-III).

Commission's Analysis and Decision

The Commission has approved the interest on Bonds as proposed by the APDCL without any change. The proposed loan schedule and interest on ASE Bonds are

given in Table –5.31 and the approved loan schedule and the interest thereon are given in Table-5.33 of the tariff order.

The APDCL has referred to pages 23 and 24, Vol-III of the petition for actual schedule of payment. On verification of the petition, it is found that Vol-III of the petition contains the annual accounts of UAEDCL, LAEDCL and CAEDCL but not the schedule of payment. However, it is observed that the schedule of Bonds subscription, interest and redemption are found in Form D 9 of Vol-II of the petition. The Commission has taken into consideration the latest additional information submitted by APDCL in its letter dated 12/05/2010 while determining the ARR for the control period FY 2010-11 to 2012-13.

Any change in the actual drawal of loan and payment of interest thereon will be considered based on audited accounts at the time of truing up.

5. Interest on working capital

Submission of APDCL

APDCL submitted that interest on working capital has been calculated at SBI PLR 11.75% for January 2010 (as filed) instead of considering the actual PLR on 1st April of respective years. SBI PLR as on 01.04.2010: 11.75%, 01.04.2011: 13.00% (Annexure A).

Commission's Analysis and Decision

The ARR approved is for the control period FY 2010-11 to 2012-13 and the tariff determination is for FY 2010-11. The APDCL filed the petition on 01/02/2010 for the control period FY 2010-11 to FY 2012-13 and the Commission has rightly considered the SBI PLR as on 1st April of 2010 i.e beginning of the control period. Any change in the PLR for the years FY 2011-12 and FY 2012-13 would be considered only at the time of truing up of the respective years.

6. Depreciation

Submission of APDCL

APDCL submitted that the Gross Fixed Assets (GFA) amount considered for calculation of depreciation is less (particularly in the overhead lines and cable networks) from the amount filed. This has resulted in loss in respect of both depreciation as well as interest on working capital (IWC) as 1% opening GFA is a component thereof (Annexure B).

Commission's Analysis and Decision

The GFA was Rs. 1914 crore as on 01/04/2010 as furnished in the additional information provided by APDCL in its letter dated 12th November, 2010. This opening balance of GFA and addition of assets i.e capitalization have been taken into consideration while determining the ARR. The Commission has computed the depreciation in accordance with the rates specified in Annexure-I of AERC (Terms and Conditions for Determination of Tariff) Regulations, 2006. With regard to the submission of APDCL that the GFA considered for calculation of depreciation particularly in the overhead lines and cable it needs to be clarified that the asset classification wise details have been obtained from the utility. Taking these details into consideration and the AERC Tariff Regulations the depreciation has been approved by the Commission. This does not warrant any revision asked by APDCL. Any change will be considered at the time of truing up based on audited annual accounts.

7. Provision for doubtful debt

Submission of APDCL

APDCL submitted that the AERC (Terms and Conditions for Determination of Tariff) Regulations, 2006, stipulate that “The Commission shall allow a provision of 1% of total revenue of every financial year to be set aside and transferred to a reserve called Reserve for bad and doubtful debts. The licensee can utilize this reserve when actual bad debts occur. The Commission will not allow any write off over and above the amount standing at the credit of bad and doubtful debt reserve, subject to a ceiling of 3% of last three years average revenue”. But AERC has not allowed any amount citing the fact that APDCL has not written off bad debts in the books of accounts (Annexure –C).

Commission’s Analysis and Decision

The APDCL already provided bad and doubtful debt reserve to the extent of Rs. 174.43 crore which is quite substantial that too in the background that the actual bad debts written off was only Rs. 1.52 crore during FY 2009-10. In this background, the Commission thought it prudent not to consider further provision under bad and doubtful debts. The APDCL shall analyse the potential receivables beyond three (3) years and submit the details to the Commission and also the details of bad debts written off from FY 2007-08 onwards as directed in the Tariff Order dated 16/05/2011.

8. Return on Equity

Submission of APDCL

APDCL submitted that the DISCOM has claimed 262.61 (DISCOM part 162.77 + ASEB part 99.84) crore as equity capital on the basis of transfer of trading function of ASEB to DISCOM. But AERC ignored the ASEB part even after considering the trading function in the ARR of APDCL.

Commission’s Analysis and Decision

As per the notification dated 13th May, 2009 issued by Government of Assam, Department of Power (Electricity) the share deposit account was Rs. 162.62 crore vide Schedule A Provisional Consolidated Balance Sheet of APDCL after amalgamation. The Commission has taken into consideration the equity as per the above notification in determining the ARR of APDCL for the control period. The scheme announced in the above notification does not disclose any transfer of equity capital of ASEB @ Rs. 99.84 crore to APDCL as submitted by APDCL in the review petition.

The Commission will take a view only when the APDCL submits documentary evidence in support of amalgamation of ASEB with APDCL and transfer of ASEB equity of Rs. 99.84 crore.

With the above decisions on the issues submitted for review, the Commission disposes of the review petition filed by APDCL.

Sd/-
(T. Chatterjee)
Member, AERC

Sd/-
(Dr. R. K. Gogoi)
Member, AERC

Sd/-
(J. Barkakati)
Chairperson, AERC