



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

R. P. (SR) No. 67 of 2021

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I. A. (SR) No. 85 of 2021

in

O. P. No. 13 of 2021

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I. A. No. 6 of 2021

Dated 09.02.2022

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 virtual hearing through video conference on 24.01.2022 and 02.02.2022. Sri Vivekananda, CE (RAC & Comml) and Sri C. Srinivasa Rao, JMD (Finance, Comml. & HRD) have appeared for review petitioner on 24.01.2022 and 02.02.2022 respectively. 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) under Section 94(1)(f) and Section 62 of the Electricity Act, 2003 read with Clause 32 of the TSERC (Conduct of Business) Regulation, 2015 [Regulation No. 2 of 2015] on 02.12.2021 seeking review of the Commission Order dated 02.09.2021 in O. P. No. 13 of 2021 and I. A. No. 6 of 2021 in the matter of Annual Performance Review (APR or True up) for FY 2019-20 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.1 of 2006 as adopted by the Commission in TSERC (Adoption) Regulation No.1 of 2014.

2. The Commission in its Order dated 02.09.2021 in O. P. No. 13 of 2021 & I. A. No. 6 of 2021 carried out the APR for FY 2019-20 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 02.09.2021 passed in Petition, O. P. No. 13 of 2021 and I. A. No. 6 of 2021 in light of the submissions made by the petitioner herein and re-consider to grant the sums withheld (5% Capitalization) for 3rd Control Period (FY2014-15 to FY2018-19) & for FY2019-20 and further kindly allow the sums disallowed towards depreciation & also in Consumer Contribution Assets.”

3. The review petitioner also filed an IA with the following prayers:

- “a) to Condone the delay, if any, in filing the Review Petition against the order dated 2nd September 2021 in Petition O. P. No. 13 of 2021, in terms of Section 32 (1) of TSERC (Conduct of Business) Regulations, 2015 (Regulation No. 2 of 2015), in view of obtaining administrative approval of our management.
- b) to take the instant Interlocutory Application for condoning the delay in filing of Review Petition seeking Review of the Commission’s Order dated 02.09.2021 in petition O. P. No. 13 of 2021 of Annual Performance Review (True Up) for the FY 2019-20 of Transmission business of TSTRANSCO, on record.
- c) to consider the reasons mentioned under the circumstances submitted.”

4. 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 2019-20 on 20.03.2021 in compliance of directive No.3 of Multi-Year-Tariff (MYT) Order for 4th control period (i.e., from FY 2019-20 to FY 2023-24) with a claim of Regulatory Receivable of Rs.543.55 crore.
- b. In 4th MYT order dated 20.03.2020, the Commission 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 3.13.4.

- c. The Commission passed APR for FY 2019-20 on 02.09.2021 in O. P. No. 13 of 2021 & I. A. No. 6 of 2021 in respect of Transmission Business and approved the true up of Rs. 64.89 crore as against claim of Rs. 543.55 crore filed by TSTransco based on audited values of FY 2019-20.
- d. Further, the Commission directed TSTransco to include the approved revenue gap of Rs. 64.89 crore for FY 2019-20 in its APR filings for FY 2020-21 and propose the recovery/adjustment mechanism of the total revenue gap (surplus) so as to take an appropriate view by the Commission on the same after prudence check of the APR filings for FY 2020-21.
- e. TSTransco has decided to file a review petition against APR Order as per clause 32 of TSERC Regulation No.2 of 2015 and accordingly completed its financials for FY 2020-21 without considering true up adjustments as per APR Order.
- f. The issue wise submissions of the review petitioner in the review petition are as under:

Issue No.1: Capitalisation

- i. The Commission in its order noted that TSTransco has claimed capitalisation amount of Rs. 2729.10 crore as compared to capitalisation of Rs. 2695.89 crore as per the audited accounts of FY 2019-20. The Commission directed TSTransco to give justification for the same. In reply, TSTransco has submitted that during FY 2019-20, the TSTransco has made a GFA addition of Rs.2729.10 crore and GFA deduction of Rs. 33.20 crore (pertaining to earlier years) and shown a net addition of Rs. 2695.89 crore in the books. The Commission after scrutinising the details of capitalisation during FY 2019-20 along with Physical Completion Certificates (PCCs) and Financial Completion Certificates (FCCs) submitted by TSTransco found that TSTransco has not submitted the Electrical Inspector Certificates for the works completed in FY 2019-20. Therefore, the Commission, in the absence

of Electrical Inspector Certificates is inclined to withhold 5% of the actual capitalization for FY 2019-20, and it shall be allowable on submission of the complete details of capitalisation and after prudence check of the same.

- ii. TSTransco submitted the capitalisation details for FY 2019-20 along with 3rd control period as directed by the Commission as per clause 4.4.2 of 4th MYT order dated 20.03.2020 and in compliance to directiveNo.6 except Electrical Inspector Certificate.
- iii. During the said year TSTransco has withdrawn certain fixed assets to a worth of Rs. 33.20 crore pertaining to earlier years (fully depreciated) and amount to that extent has been reduced from the current year capitalisation in the annual accounts. In the Regulated Rate Base (RRB) calculation the same have to be reduced from opening GFA and accumulated depreciation without having any impact on current year capitalisation as they were pertaining to earlier years. Further, if assets withdrawn are reduced from current year capitalization will have an impact on RRB, RoCE, Depreciation and Tax on Return on Equity and results in reduction in regulated ARR.
 - a) Further, the assets are being capitalised based on PCCs furnished by the concerned Superintending Engineers on completion of the projects. However, since from APSEB and after bifurcation of APTransco & TSTransco, obtaining electrical Inspector Certificate has never before a practice in TSTransco.
 - b) Unlike the LT/HT consumers, TSTransco is a licensee as per section 14 of the Electricity Act, 2003. It is the duty of the Transmission licensee as per Section 40 of the Act, 2003 to build, maintain and operate an efficient, co-ordinated, economical Intra State Transmission system. The TSTransco has robust procedure including strict Quality Control systems and competent manpower to execute and maintain electrical system. Hence, it was felt that there is no need for getting the works of a licensee to be inspected by the electrical Inspect. Considering this ever since APSEB days, the works of

Transmission were never inspected by the electrical Inspector. Many States have issued orders exempting these inspections.

- c) Government of Andhra Pradesh, vide G. O. Ms. No. 12, dated 17.05.2017 have issued an order that the inspection and testing of electrical installations including installations of suppliers or consumers which shall be carried out by Electrical Inspector shall be above 33 kV exempting APGenco & APTransco.
- d) The nature of Transmission business and construction activities are similar to those of APTransco and the two companies are formed due to bifurcation of combined Andhra Pradesh State into Telangana State and residuary Andhra Pradesh State.
- e) In view of the above, TSTransco requested the Commission for waiver of submission of Electrical Inspector Certificates and consider to allow capitalisation in full and release of 5% withhold amount.

- iv. The year wise detailed calculation of approximate financial impact on revenue consequent to withholding of 5% on capitalisation for 3rd MYT control period and FY 2019-20 of 4th MYT control period is as below:

Financial Year	2014-15	2015-16	2016-17	2017-18	2018-19	Total 3 rd MYT Period	2019-20
Claimed	689.48	1947.38	1789.21	1982.20	3589.79	9998.06	2729.10
Approved	655.01	1850.01	1699.75	1883.09	3410.30	9498.16	2561.10
Difference in additions	34.47	97.37	89.46	99.11	179.49	499.90	168.00
Increase in opening GFA		34.47	34.47	34.47	34.47		34.47
			97.37	97.37	97.37		97.37
				89.46	89.46		89.46
					99.11		99.11
Less Depreciation @5.28%)	1.82	5.14	4.72	5.23	9.48	26.39	8.87
		1.82	1.82	1.82	1.82	7.28	1.82

Financial Year	2014-15	2015-16	2016-17	2017-18	2018-19	Total 3 rd MYT Period	2019-20
			5.14	5.14	5.14	15.42	5.14
				4.72	4.72	9.45	4.72
					5.23	5.23	5.23
Increase in RRB	16.32	78.76	167.25	256.55	388.50	907.39	383.06
RoCE (Approved by ERC)	11.43%	10.53%	10.49%	9.64%	9.31%		11.29%
RoCE amount	1.87	8.29	17.54	24.73	36.17	88.61	43.25
Tax on Return on Equity	0.11	0.51	1.08	1.66	2.52	5.88	2.01
Less Depreciation @5.28%)	1.82	5.14	4.72	5.23	9.48	26.39	8.87
		1.82	1.82	1.82	1.82	7.28	1.82
			5.14	5.14	5.14	15.42	5.14
				4.72	4.72	9.45	4.72
					5.23	5.23	5.23
Total						158.26	71.05
Add: Carrying cost @ 9.85%						7.79	0.00
Total						166.05	71.05

- v. It could be seen from the above table, that there is a reduction in revenue for an amount of Rs.166.05 crore (Approx.) upto FY 2018-19, which resulted in increase in Special Appropriation amount for 3rd MYT. Further, it resulted in decrease in opening GFA for FY 2019-20 and decrease in revenue to the extent of Rs.71.05 crore (Aprox.).
- vi. TSTransco prayed the Commission to waive off the carrying cost of Rs. 25.64 crore charged on pass through gain for 3rd MYT control period and requested the Commission to consider the facts and allow the same.

Issue No.2: Depreciation

- i. TSTransco requested the Commission to consider the depreciation rates as notified by MoP, Gol in line with the tariff approved for 3rd MYT. Whereas, the Commission has approved depreciation in 4th MYT order dated 20.03.2020 considering the rates of depreciation as notified in CERC (Terms and Conditions of Tariff) Regulations, 2019. Accordingly, the Commission has computed the depreciation on the opening value of fixed assets for FY 2019-20 considering the rates notified by CERC. Further, the Commission has subtracted the value of assets financed through consumer contribution from the opening GFA before approving the depreciation for FY 2019-20.
- ii. The Commission has allowed depreciation as per the rates notified by the MoP, Gol for the 3rd MYT control period. TSTransco requested the Commission to reconsider and allow depreciation as per rates notified by MoP, Gol for FY 2019-20 as the annual accounts for FY 2019-20 were prepared considering the depreciation rates notified by the MoP, Gol.
- iii. However, TSTransco has changed its depreciation policy from FY 2020-21 onwards by adopting the depreciation rates as notified in CERC (Terms and Conditions of Tariff) Regulations, 2019 in compliance to the Commission directive No.5 of 4th MYT Order (FY 2019-20 to FY 2023-24).
- iv. Further, the TSTransco is claiming depreciation on consumer contribution as expense and the same is considered as income by way of amortization of consumer contribution in NTI, whereas, the Commission has considered only amortization of consumer contribution assets, Hence, it was resulted in reduction of expenditure and increasing in income, which has ultimately resulted in reduction in APR for FY 2019-20.
- v. In view of the above, TSTransco has requested the Commission to allow the depreciation of Rs.919.44 crore claimed as per rates notified by MoP, Gol filed in APR for FY 2019-20 on one time basis as the review petition has complied directive no.5 from FY 2020-21 onwards.

Issue No.3: Non-Tariff Income (NTI)

- i. The Commission has considered Non-Tariff Income (NTI) for an amount of Rs.514.82 crore as per audited accounts as claimed by TSTransco, which includes an amount of Rs. 244.93 crore towards amortization of Consumer contribution as against approved NTI in 4th MYT of Rs. 296.14 crore. Further, while allowing depreciation, the Commission has subtracted the value of assets financed by consumer contribution from the opening GFA before approving the depreciation for FY 2019-20 in view of depreciation on assets funded by consumer / user contributions or through any capital subsidy / grant etc., shall not be allowed in the revenue requirement of transmission licensee.
- ii. TSTransco claimed depreciation on consumer contributions as expense and also accounted as income by way of amortization of consumer contribution in NTI. The Commission has considered only amortization of consumer contribution in NTI without allowing depreciation on the consumer contribution assets as per APR order dated 02.09.2021.
- iii. Therefore, the Commission to take a view and consider to allow depreciation on consumer contribution as expense and amortization of consumer contribution as income.
- iv. Disallowing depreciation on consumer contribution assets and approving amortization amount on consumer contribution as income under NTI will have double impact on tariff and ARR reduced to that extent.
- v. The review petitioner requested the Commission to reduce the amortisation of consumer contribution amount of Rs. 244.93 crore including in NTI towards negative element in ARR for FY 2019-20 and revise the approved ARR accordingly.
- vi. The summary of review sought by the review petitioner is as under:

Sl. No.	Item	Commission's Order	TSTransco's objection	Impact on ARR (Rs. in crore)
1.	Year wise Capitalization	Withheld 5% of capitalization	TSTransco has submitted complete	(i) For 3 rd Control period (FY 2014-15

Sl. No.	Item	Commission's Order	TSTransco's objection	Impact on ARR (Rs. in crore)
	(Audited) from FY 2014-15 to FY 2019-20	(Audited) due to non submission of Electrical Inspector Certificate for (i) 3 rd Control period (FY 2014-15 to FY 2018-19) as stated at clause 4.4.3 of 4 th MYT Order dated 20.03.2020; and (ii) For FY 2019-20 as per APR Orders dated 02.09.2021;	capitalisation details along with PCCs and FCCs for all the years upto FY 2019-20 but withholding 5% of capitalisation amount by the Commission due to non-submission of Electrical Inspector Certificate will have negative impact on the ARR of TSTransco for the said period in terms of ROCE, IT on RoE and Depreciation.	to FY 2018-19) Rs.166.05 crore (Approx.); (ii) For FY 2019-20 (4 th MYT control period) of Rs.71.05 crore (Approx.);
2.	Depreciation	Disallowed depreciation amount of Rs. 172.44 crore for FY 2019-20 due to non compliance of directive No.5 of 4 th MYT order (i.e., CERC rates) contribution Assets and allowed amortization of consumer contribution amount of Rs. 244.93 crore in	TSTransco has complied with directive No.5 of 4 th MYT order in FY 2020-21 and hence, requested for waiver for FY 2019-20 on one time basis.	For FY 2019-20 Rs.172.44 crore.

Sl. No.	Item	Commission's Order	TSTransco's objection	Impact on ARR (Rs. in crore)
		NTI.		
3.	Non Tariff Income (NTI)	Disallowed depreciation on consumer contribution Assets and allowed amortization of consumer contribution amount of Rs. 244.93 crore in NTI.	TSTransco prays to allow Depreciation on consumer contribution Assets and amortization of consumer contribution in NTI.	Negative impact of ARR in FY 2019-20 for Rs.244.93 crore.

Other Issues: Treatment of further disallowed claim

- i. The review petitioner requested the Commission to allow TSTransco to adjust /recover of further disallowed claim if any out of surplus earned in subsequent years of control period (i.e., from FY 2021-22 to 2023-24).

5. 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 24.01.2022 and 02.02.2022, the Review petitioner submitted as under:

Record of proceeding dated 24.01.2022

“The representative of the review petitioner stated that the Joint Managing Director of the petitioner company is not well and is unable to attend the hearing. He sought adjournment of two weeks in the matter. Commission notices that the matter is required to be decided expeditiously before determination of retail supply tariff. Accordingly, the matter is adjourned.”

Record of proceeding dated 02.02.2022

“... .. The representative of the review petitioner stated that the Commission, while allowing the petition for annual performance of FY 2019-20 for transmission business, had refused certain aspects, which have bearing on

the finances of the transmission licensee. Although, the directions of the Commission have been complied with, certain amounts relating to capital expenditure, depreciation and consumer contribution have been decided against the review petitioner. He sought to explain by demonstrating various provisions of the regulations and order of the Commission. It is also his case that deducting amounts or not according approval for the amounts claimed, would have adverse impact on the revenues of the licensee. Also allowing lesser amount would result in having effect on the returns of the company. Therefore, he sought review of the order of the Commission and to rectify the amounts refused in the annual performance petition. The Commission passed order on the annual performance in September, 2021 and the petition is filed in November, 2021 and there is a delay of few days in filing the review petition. The Commission may condone the delay in filing the review petition. The representative of the review petitioner sought admission of the review petition by condoning the delay, as also taking up the matter for review.”

6. The Commission considered it appropriate to decide the I.A. seeking condoning the delay in filing the review petition at first instance before proceeding to decide the review petition.

7. The clause 32(1) of the Regulation No.2 of 2015 specifies the time period of 75 days for filing of review petition from the date of the order and the Commission may allow a further period of 30 days beyond the 75 days on production of sufficient cause for filing the review petition. In the instant case, the time period of 75 days from the date of issue of APR Order dated 02.09.2021 lapses on 16.11.2021, the review petitioner has not filed the review petition within this date, whereas the actual date of review petition falls within the extendable period of 30 days.

8. The review petitioner has filed IA for delay condonation citing the administrative approvals. The Commission expresses profound regret on the nonchalant manner of the review petitioner in citing the administrative reasons for delay. Nevertheless, the Commission opines that the review petitioner should be provided an opportunity for putting forth his case. It is also the fact that the review petition will be decided after hearing on merits and therefore, the Commission condones the delay in filing the review petition.

9. Now, the point arise for consideration in this matter is –
'Whether the APR order dated 02.09.2021 in O. P. No. 13 of 2021 & I. A. No. 6 of 2021 in the matter if Annual Performance Review (APR or True-up for FY 2019-20 for Transmission business of TSTransco, is liable for review as sought by the review petitioner?
10. Review of an Order may be considered by the Commission u/s 94(1)(f) of the Electricity Act, 2003 read with the Order No. XLVII Rule 1 of Civil Procedure Code, on the following grounds:
- a) Discovery of new and important matter or evidence which after exercise of due diligence was not in the knowledge of the applicant and could not be produced by him at the time when the decree or order was passed.
 - b) Some mistake or error apparent on the face of the record, and
 - c) For any other sufficient reason.
11. 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

12. In accordance with the provisions of the Electricity Act, 2003, the Central Electricity Authority (CEA) (Measures relating to safety and electric Supply) Regulations, 2010 and the functions of the Department of Electrical Inspectorate, Government of Telangana State (GoTS), the electrical installations and apparatus of voltage exceeding 650 Volt require inspection and statutory approval by Electrical Inspector before installation. The orders of Government of residual Andhra Pradesh with regards to requirement of Electrical Inspector Certificates have no bearing whatsoever for Telangana State when GoTS mandates otherwise. Therefore, the review sought by the review petitioner for waiver of submission of Electrical Inspector Certificates is denied.

13. As regards the deduction of assets from the capitalisation during the year, the Commission does not find the merit in considering the actual capitalisation different from that in the audited accounts. Therefore, the review sought by the review petitioner in this regard is denied.

14. As regards the carrying cost amounting to Rs.25.64 crore, the review sought by the review petitioner in this regard does not even pertain to the APR Order dated 02.09.2021 but to the MYT Order dated 20.03.2020. Therefore, the review sought by the review petitioner in this regard is denied.

Issue No.2: Depreciation

15. As regards the rates of depreciation, the review petitioner is seeking a fresh decision in the matter, under the guise of review, without any valid grounds for deviation from the Commission's decision. Therefore, the review sought by the review petitioner in this regard is denied.

16. As regards the treatment of assets funded by consumer contributions while computing depreciation:

17. The Commission in the MYT Order dated 20.03.2020 approved the depreciation of Rs. 747.00 crore for FY 2019-20. The methodology considered by the Commission in approval of the same is reproduced as under:

“5.12.7 The Commission has approved depreciation for the 4th Control Period in accordance with the provisions of Regulation No.5 of 2005:

- i. The rates of depreciation as notified by CERC in its (Terms and Conditions of Tariff) Regulations, 2019 has been considered.
- ii. The depreciation has been approved considering the approved opening GFA for each year of the Control Period.
- iii. The amortisation of assets funded by consumer contributions/ grants has been considered as non-tariff income, in line with the proposal of the Petitioner.”

18. The Commission in its APR Order dated 02.09.2021 had approved the depreciation of Rs. 747.00 crore, the same as approved in the MYT Order on account of no variation in the opening GFA. Therefore, the amount of assets funded by consumer contributions have not been deducted from the opening assets as stated by the review petitioner. However, the Commission understands that the

apprehension has arisen due to the inadvertent typographical error crept in Para 4.7.5 of the APR Order. Therefore, the corrected Para 4.7.5 shall be as under:

“The Applicant requested the Commission to consider the depreciation rates as notified by MoP, Gol. However, the Commission approved depreciation in the MYT Order dated 20.03.2020 considering the rates of depreciation as notified in CERC (Terms and Conditions of Tariff) Regulations, 2019. Hence, following the mechanism adopted by the Commission in the MYT Order, the Commission has computed the depreciation on the opening value of fixed assets of FY 2019-20 by considering the rates notified by CERC. The depreciation approved in MYT Order, claimed by the Applicant and approved by the Commission for FY 2019-20 is as shown in the Table below:”

Issue No.3: Non-Tariff Income (NTI)

19. As regards the consideration of amortisation of consumer contributions in NTI, as discussed above, the Commission had considered the assets funded by consumer contributions while approving depreciation and accordingly the amortisation of consumer contributions has been considered in NTI. Therefore, the review sought by the review petitioner in this regard is denied.

Other Issue: Treatment of further disallowed claim

20. In light of the Commission’s decision in the other issues, this issue does not survive.

21. The Review Petition is disposed of in the above terms.

This Order is corrected and signed on this the 09th day of February, 2022.

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