

RAJASTHAN ELECTRICITY REGULATORY COMMISSION

Petition No: RERC/1876/21

In the matter of Petition filed by M/s Rajasthan Rajya Vidyut Prasaran Nigam Limited for Review of the Commission's Order dated 12.10.2020 passed in Petition No. 1587/19

Coram : Dr. B. N. Sharma, Chairman
Sh. S. C. Dinkar, Member
Sh. Prithvi Raj, Member

Petitioner : Rajasthan Rajya Vidyut Prasaran Nigam Ltd.

Respondents :
1. Jaipur Vidyut Vitran Nigam Ltd.
2. Ajmer Vidyut Vitran Nigam Ltd.
3. Jodhpur Vidyut Vitran Nigam Ltd.
4. Rajasthan Urja Vikas Nigam Ltd.

Date of hearing : **01.07.2021**

Present:

1. Sh. V.K. Gupta, Authorised Representative for Petitioner
2. Sh. R.N. Birda, Authorised Representative for Respondent

Date of Order : **23.07.2021**

ORDER

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited (hereinafter referred as 'RVPN' or "Petitioner"), has filed instant Petition under Section 94 (1) (f) of the Electricity Act, 2003 for review of Commission's Order dated 12.10.2020 in the matter of approval of Annual Revenue Requirement and tariff determination for FY 2020-21 and True-Up of FY 2018-19.
2. Notices were issued to Respondents on 06.01.2021 for reply. Accordingly, the Respondent Rajasthan Urja Vikas Nigam Ltd. submitted its comments/suggestions on 09.03.2021. RVPN submitted its reply on the

comments/suggestions on 19.04.2021.

3. The matter was heard on 01.07.2021. Sh. V.K. Gupta, Authorised Representative, appeared for Petitioner, Sh. R.N. Birda Authorised Representative, appeared for Respondents.
4. RVPN has filed the instant Petition seeking review of the said Order, under the following heads:

True-up for FY 2018-19

- i) Non-Tariff Income;
 - ii) Gross Fixed Assets;
 - iii) Interest on Loan and Finance Charges; and
 - iv) Other Charges.
5. The Commission has considered the submissions of Petitioner and Respondents on each issue and are summarised as below:

True-Up for FY 2018-19

Issue No. (i) : Non-Tariff Income (NTI) **RVPN's Submission**

6. The Petitioner submitted that the Commission in its Order dated 12.10.2020 against Petition No. 1587/2019 has considered the Non-Tariff Income amounting to Rs. 158.06 Crore instead of Rs. 126.73 Crore. The revised Non-Tariff Income of Rs. 126.73 Crore was submitted to the Commission in revised TTU 11 Form (Non-Tariff Income) at the time of reply of data gaps dated 01.05.2020. The amount of Rs. 158.06 Crore was given initially, which was including the delayed payment surcharge of Rs. 31.33 Crore.
7. The Petitioner further submitted that the late payment surcharge is over and above the tariff. Though, RERC Tariff Regulations, 2014 does not clearly specify this but RERC Tariff Regulations, 2019 has clarified that late payment surcharge and interest on late payment surcharge earned by the Generating Company or the Licensee shall not be considered under Non-Tariff Income. Therefore, the Petitioner requested to review the same and allow NTI of Rs. 126.73 Crore.

Respondent's Comments/Suggestion

8. The Respondent submitted that the RERC (Terms and Conditions for determination of Tariff) Regulations, 2014 do not specify that the late payment surcharge will not be considered under Non-Tariff Income. Therefore, the claim of the Petitioner holds no basis since the Petition under review is for true-up FY 2018-19, which falls under the aforesaid Regulation.

Commission's Analysis

9. It is observed that the Petitioner themselves are admitting the fact that RERC (Terms and Conditions for determination of Tariff) Regulations, 2014 do not specify that late payment surcharge is not to be considered under Non-Tariff Income. The issue raised by the Petitioner is for true-up of FY 2018-19, which falls under the aforesaid Regulation. Therefore, seeking the review for not considering LPS in Non-Tariff Income relying on RERC Tariff Regulations, 2019 does not hold good as these Regulations cannot be given effect retrospectively.
10. Further, the Commission in True-Up Order dated 27.01.2021 for Discoms for FY 2018-19 have not allowed the Distribution Licensees to retain the late payment surcharge collected from the consumers and the same has been considered as a part of Non-Tariff Income.
11. The Commission, is of the view that the Petitioner has neither pointed out any error apparent nor provided any new information which satisfies the conditions for review of the impugned order. Hence, the submissions of the Petitioner are not maintainable and accordingly, the review sought is not admissible in this regard.

Issue No. (ii) : Gross Fixed Assets (GFA) RVPN's Submission

12. The Petitioner submitted that the Commission vide Order dated 12.10.2020 has reduced the amount of GFA addition, resulting in less actual capitalization by Rs. 36.78 Crore. The Commission ruled as below:

4.9....*"The Commission also observed that the actual capitalization includes*

Rs. 36.78 Crore pertains to minor assets and other expenditures like lease rent, which are not allowable under capitalization. The Commission deems it fit to not consider the amount of Rs. 36.78 Crore under the capitalization for FY 2018-19 as the same are nature of O&M Expenses and hence the Commission has considered the same as part of O&M expenses."

13. While going through the details it has been observed that Supply and installation of SAP ERP in RVPN amounting to Rs. 14.99 Crore has been disallowed as Capital Expenditure, whereas the same project has been allowed in the Investment Plan Order dated 03.05.2018 for FY 2018-19. Therefore, the Petitioner requested to review the same and allow GFA after adding Rs. 14.99 Crore for SAP.

Respondent's Comments/Suggestion

14. The Petitioner himself submitted that the Commission vide Order dated 12.10.2020 has ruled as below:

"The Commission deems it fit to not consider the amount of Rs. 36.78 Crore under the capitalization for FY 2018-19 as the same are nature of O&M Expenses and hence the Commission has considered the same as part of O&M expenses".

15. Therefore, the Respondent requested the Commission not to alter the capitalization figures since, it eventually burdens the consumers. As the amount has already been considered as a part of O&M expense therefore, the Commission may set apart the claim regarding GFA addition.

Commission's Analysis

16. The Commission in its Order dated 12.10.2020 has given detailed reasoning on the issue raised by the Petitioner against Gross Fixed Asset. Vide data gaps dated 08.07.2020 against Petition No. 1587/2019, the Commission has asked the following to the Petitioner:

"Vide GFA addition Form TTU 3, i.e., through the Petition, RVPN claimed Rs. 815.92 Crore against the works capitalized for FY 2018-19, whereas as per the excel files submitted for different circle's through preliminary data gaps, total capitalization is Rs. 798.78 Crore for FY 2018-19. In this regard, RVPN is

required to submit the justification for this discrepancy and submit revised excel files as per the format specified in preliminary data gaps”.

Against this query, the Petitioner vide its replies dated 20.07.2020 submitted as below:

“The remaining capitalized amount for FY 2018-19 is of the Head office, i.e., Rs. 17.09 Crore, hence, total GFA addition is Rs. 798.78 Crore + Rs. 17.09 Crore which equals Rs. 815.87 Crore”.

17. The Commission observes that the Petitioner themselves have categorized amount claimed against SAP ERP under the “Head Office” expenses. The Commission in the Investment Plan Order for FY 2020-21 too has ruled that the expense incurred against institutional strengthening works are not to be considered under capital works. Accordingly, the Commission considering it as minor assets under Head “office expenses” as submitted by the Petitioner themselves and has allowed the cost against it under “O&M expenses” vide Order dated 12.10.2020.
18. The Commission, therefore, is of the view that Petitioner has neither pointed out any error apparent nor provided any new information with review Petition, which satisfies the conditions for review of the impugned Order. Hence, the submissions of the Petitioner are not maintainable and accordingly, the review sought is not admissible in this regard.

Issue No. (iii) : Interest on Lease Rent
RVPN's Submission

19. The Petitioner submitted that the Commission has disallowed the amount of Rs. 2.40 Crore claimed against interest on lease rent under the head of other finance charges with a remark that the Commission does not find it prudent to allow. Regulation 23 of the RERC Tariff Regulations, 2014 provides for lease charges for assets taken on lease by the Transmission Licensee as per the lease agreement.
20. Further, the Petitioner submitted that as per Para 20 of the Ind AS 17, at the commencement of lease term, leases shall recognize finance leases as assets and liabilities in their balance sheets at amounts equal to the fair value of the leased property or, if lower the present value of the minimum

lease payments each determined at the inception of the lease.

21. In view of IND AS 17, two lands of RVPN has been classified as financial lease. Accordingly, the assets were valued at present value of minimum lease payments. This has an effect of recognition of expenditures in the statement of Profit and loss by way of interest on financial lease obligation and depreciation on the financial lease asset instead of charging lease rent.

Respondent's Comments/Suggestion

22. The Respondent requested the Commission to not allow Rs. 2.40 Crore pertaining to the lease rent in line with the methodology followed in truing up of expenses of the Petitioner for FY 2017-18.

Commission's Analysis

23. RERC Tariff Regulations, 2014 states that the "Lease charges for assets taken on lease by a generating company or a transmission or distribution licensee shall be considered as per lease agreement provided they are considered reasonable by the Commission".
24. The Commission in its Tariff Regulations has clearly defined all the expenses and costs, which can be considered as part of ARR. As per the provisions of Regulations, the Lease Charges for assets taken on lease are considered as part of ARR provided the same are found reasonable by the Commission. For lease charges to be considered as part of ARR, the Licensee should have incurred the expenses towards lease charges. The expenses in the form of interest on lease rent has not been considered as legitimate expense to be passed on in the ARR by the Commission in its Regulations.
25. With the details submitted by the Petitioner against lease rent in the instant case, it is observed that such expenses have not been incurred in actuals and is only a book entry due to accounting standards, which cannot be called as expense for considering in ARR. Therefore, the Commission did not find it prudent to allow such notional expenses to be charged from the Respondents.
26. The Commission, therefore, is of the view that Petitioner has neither pointed

out any error apparent nor provided any new information with review Petition, which satisfies the conditions for review of the impugned Order. Hence, the submissions of the Petitioner are not maintainable and accordingly, the review sought is not admissible in this regard.

Issue No. (iv) : Other Charges

RVPN's Submission and response to the Respondent's Comments/Suggestion

27. The Petitioner submitted that the Commission has disallowed the amount of Rs. 2.08 Crore claimed by RVPN as "Other Charges" as the Commission did not find it prudent to allow. In this matter, details of "Other Charges" have already been submitted to the Commission at the time of replies to data gaps.

28. The Petitioner also elaborated Other Charges in review petition as below:

- i) Deferred revenue expenditure of Rs. 0.0072 Crore is on account of premium paid to LIC against the restructuring of Loans;
- ii) Loss of sale of Fixed Assets of Rs. 1.57 Crore should be allowed as gain on sale of fixed assets amounting to Rs. 0.78 Crore has been considered as a part of Non-Tariff Income by RERC. Therefore, as per matching principle if an income has been considered, expenditures corresponding to that income should also be allowed;
- iii) Sundry balance written off on account of waiver of shut down charges amounting to Rs. 0.36 Crore shall be allowed due to fact that income related to shut down charges has been recognized as Misc. revenue and considered in Non-Tariff income. Therefore, as per matching principle if an income has been considered then expenditures corresponding to that income should also be considered;
- iv) Bad and doubtful debts of Rs. 0.15 Crore has not been allowed whereas the same is allowed in Regulation 26 of the RERC Tariff Regulations, 2014 which states that "Bad and Doubtful debts may be allowed 0.25% of receivables subject to writing off bad and doubtful debts in the previous year in accordance with the procedure laid down by the licensee company"

Respondent's Comments/Suggestion

29. The Respondent sought detailed justification against the Petitioner's claim of Rs. 2.08 Crore for "Other charges" along with the cost benefit analysis against each head.

Commission's Analysis

30. The Commission while allowing "Other Charges" for FY 2018-19 has followed the similar procedure as followed in its previous True-Up Orders of the Petitioner in approving the cost.

31. Further, the word "may" in the Tariff Regulations providing 0.25% for bad debts in the ARR does not bind the Commission for its allowance. The Commission vide data gaps dated 13.01.2020 has asked the Petitioner to submit the justification against its claim. Vide its reply dated 01.05.2020, the Petitioner submitted the bifurcation of cost claimed against "Other Charges" as submitted again with Review Petition and with the replies of the objections raised by the Respondent. The Petitioner did not submit any justification as to why the amount against bad and doubtful debts were written off, though they don't have a pool of consumers like Distribution Licensee in collection of its revenue.

32. The Commission is of the view that it has disallowed the claim of other charges after considering all facts and the Petitioner has neither pointed out any error apparent nor provided any new information with the review Petition, which satisfies the conditions for review of the impugned Order. Hence, the submissions of the Petitioner are not maintainable and accordingly, the review sought is not admissible in this regard.

33. The review Petition is dismissed accordingly.

(Prithvi Raj)
Member

(S.C. Dinkar)
Member

(Dr. B. N. Sharma)
Chairman