

BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION,

SHIMLA

In the Matter of:

The HP State Electricity Board Ltd. thro' its
Chief Engineer (Commercial)
Vidyut Bhawan, Shimla-171004

.....Petitioner

Versus

1. M/s Auro Spinning Mills
Sai Road Baddi District Solan-173205
2. M/s Laghu Udyog Bharti
IC, Industrial Area Baddi, District Solar-173205.
3. M/s Jai Bharat Steel
Kala Amb Himachal Pradesh-173030.
4. The Confederation India Industry,
(Himachal Pradesh State Council, Northern Region)
Sector-31A, Chandigarh-160030.
5. M/s BBN Industry Association
C/o Single Window Clearance Agency Industrial Area Baddi,
District Solan-173205.
6. M/s Parwanoo Industries Association, HPCED Building,
Dept. Of Ind. Association Sector-1, Parwanoo ,
District Solar-173220.

.....Respondents

Petition No. 25 of 2018

(Decided on 29th October, 2018)

CORAM:

S.K.B.S NEGI

CHAIRMAN

BHANU PRATAP SINGH

MEMBER

Counsel:-

for the petitioner:

Sh. Surinder Saklani Standing Counsel
a/w Sh. Kamlesh Saklani
(Authorized Representative)

for the respondent No.-1 and 6

- None-

ORDER

(Last heard on the 28th July, 2018 and Orders reserved)

- 1.1 This petition has been filed by the HPSEBL pursuant to the Order dated 23.04.2018 passed by the Hon'ble APTEL in Appeal No. 57 of 2014 seeking adjudication and directions in regard to the interest on carrying cost of HPSEBL restricted by the Commission in its Order for True-up of FY 2011-12 and ARR for FY 2013-14 dated 27/04/2013.

1.2 The Petitioner has submitted as under:

- a. On 01.04.2011, the Commission framed and notified the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2011 (hereinafter referred to as the 'Tariff Regulations'). The Tariff Regulations were made applicable by the Commission for the multi-year Control Period FY 2011-12 to FY 2013-14.
- b. In terms of the Tariff Regulations, the Commission passed the order dated 19/07/2011 approving the Aggregate Annual Revenue Requirement for the HPSEBL for each year of the multi-year period FY 2011-12 to FY 2013-14 and determining the applicable retail supply tariff in the State of Himachal Pradesh.
- c. Upon completion of the first year of the Control Period namely, FY 2011-12, the Commission on the petition filed by the HPSEBL entered into the exercise of revision in the Aggregate Annual Revenue Requirement of the HPSEBL for FY 2012-13 and also determination of tariff for the year FY 2012-13. The Commission passed an order dated 24/04/2012 conducting the first Annual Performance Review for the MYT Control Period FY 2011-12 to FY 2013-14.
- d. For the third period of the Control Period, namely, FY 2013-14, the HPSEBL filed a petition before the Commission on 30/11/2012. In the said petition, the HPSEBL sought approval of the Aggregate Annual Revenue Requirement for the year FY 2013-14 and determination of the wheeling and retail supply tariff for the said year. The HPSEBL also sought the true-up of the expenses on revenue pertaining to the first year of the Control Period namely FY 2011-12.
- e. The above petition filed by the HPSEBL being Case No. 176 of 2012 was disposed of by the Commission vide Order dated 27/04/2013, whereby the Commission conducted the true-up exercise for the HPSEBL for the year FY 2011-12 and approved the revised annual revenue requirements for the year FY 2013-14.
- f. Following this, the HPSEBL filed a review petition of the said Order. By order dated 26/11/2013, the Commission allowed various claims of the HPSEBL in the review petition and modified the tariff order dated 27/04/2013. However, the Commission had not fully accepted the review petition and had rejected some of the claims made by the HPSEBL in the review petition.
- g. In the circumstances, aggrieved by the order dated 26/11/2013 into which the Order dated 27/04/2013 merged, the HPSEBL preferred Appeal No. 57 of 2014 before the Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as the 'APTEL'). The present petition is being filed pursuant to the Order dated 23/04/2018 passed by the Hon'ble APTEL in Appeal No.57 of 2014.

- h. This Commission did not allow the carrying cost on the full revenue gap amount of Rs. 683.03 Cr. arrived at in the Tariff Order dated 27.04.2013 and thus amount should not have been restricted to only Rs. 133.80 Cr. for allowing carrying cost.
 - i. Matter of carrying cost on arrears of 5th Pay Commission was taken up by the HPSEBL in true-up filing for FY 2015-16 and the Commission vide Order dated 04.05.2018 allowed carrying cost on Rs. 201.81 Cr. out of Rs. 683.03 Cr.
 - j. Seeks Approval of carrying cost on balance amount of Rs. 347.42 Cr. (after accounting for carrying cost on Rs. 133.80 Cr. and Rs. 201.81 Cr. which was provided by the Commission vide tariff order dated 27.04.2013 and 04.05.2018, respectively) out of the total amount of Rs. 683.03 Cr. in line with carrying cost approved for 5th Pay Commission arrears.
- 1.3 In view of the Hon'ble APTEL Order dated 23/04/2018 in Appeal No. 57 of 2014 in this matter permitting the HPSEBL to file their consolidated representation to the Commission and direction for disposal of the representation in accordance with law, the Commission has admitted the petition on 11.06.2018.
- 1.4 On preliminary examination of the petition, it was observed that the Petitioner has not substantiated its claim with regard to the sought relief and no details or supporting calculations were provided along with the petition. Further, the Petitioner has not even attempted to address the grounds or provide reasonable justification on which the disallowance in carrying cost was undertaken in the Order dated 27.04.2013.
- 1.5 Due to several deficiencies in the petition filed by the HPSEBL, the Commission in its letter No. HPERC/Review– Petition (25/2018)/HPSEBL/2018-19/-662 dated 18/06/2018 and HPERC/Review– Petition (25/2018)/HPSEBL/2018-19/-1112 dated 27/07/2018 called for additional information and details of the claim along with supporting documents. In response, the Petitioner in its response vide letter No. HPERC/CE(Comm.)/SERC-26/2018-4367 dated 27.06.2018, HPSEBL/ CE(Comm.)/SERC-26/2018-4541 dated 04.07.2018 and HPSEBL/CE-(Comm.)/SERC-26/2018-19-6472 dated 23.08.2018 submitted the clarifications and computation of the claim amount.

The Commission observed that prima facie, the Petitioner had computed the amount of Rs. 347.42 Cr. eligible for carrying cost after considering the impact of Order on provisional true-up of FY12 dated 27/04/2013 and true-up of FY16 vide order dated 04/05/2018. However, it is observed a final true-up for FY12 has been undertaken subsequently by the Commission in the True-up Order for FY11 and FY12 in petition No. 76/2014 which has not been considered by the Petitioner in its working. On seeking clarification, the Petitioner has submitted that while determining the balance amount of Rs. 347.42 Cr., it has erroneously overlooked the impact of the final true-up of FY11 and FY12 dated 30/03/2015.

- 1.6 In the revised submission vide letter No. HPSEBL/CE-(Comm.)/SERC-26/2018-19-6472 dated 23.08.2018, the Petitioner has mentioned that it has not considered the impact of true-up of FY12 as per the Order dated 30.03.2015 and has requested the Commission to allow carrying cost upto FY18 on the approved revenue gap towards Non-Recovery of S&I of Rs. 100 Cr. in FY12 as per Final True-Up Order of FY11 and FY12 dated 30/03/2015.
- 1.7 It is observed that the Commission while computing the carrying cost on the provisional revenue gap determined for FY12 in the Order dated 27th April, 2013 on ‘True-up For FY12 and Annual Performance Review for FY14 under the 2nd MYT Control Period’, had denied the Petitioner carrying cost on Rs. 100 Cr. due to inadequate efforts of the HPSEBL towards recovery of Survey and Investigation activities. The Commission had stated as below:
- “5.64 The Commission also notices that HPSEBL has not put in efforts to ensure recovery of amount recoverable towards Survey and Investigation activities. The Commission had directed HPSEBL to recover Rs 100 Cr towards amount payable on account of Survey and Investigation activities. As HPSEBL has not collected any amount towards this, the Commission is not allowing any carrying cost on Rs 100 Cr.”*
- 1.8 In the final true-up Order for FY11 & FY12 dated 30.3.15, a similar approach of excluding Rs. 100 Cr. from the revenue gap was considered while computing carrying cost.
- 1.9 While the HPSEBL have provided details of some correspondence during the second Control Period with the developers for recovery of the Survey and Investigation Charges, the actual status of outstanding Survey and Investigation Charges has not been properly submitted by the Petitioner. In view of the fact that carrying cost with respect to other elements on which carrying cost was denied were approved in the subsequent Orders, the Commission feels that denying carrying cost may not be appropriate considering the financial position of the HPSEBL. Therefore, the Commission is now approving the carrying cost on the balance Rs. 100 Cr. However, the Petitioner is required to submit all details with respect to Survey and Investigation outstanding along with action taken along with the subsequent MYT Petition.

- 1.10 In the absence of revised claim by the Petitioner, the Commission has independently analysed the claim for carrying cost as shown in the table below:

Table 1: Approved Carrying Cost (Rs. Cr.)

| Particulars | FY 12 | FY13 | FY14 | FY15 | FY16 | FY17 | FY18 |
|--------------------|---------------|---------------|--------------|--------------|--------------|--------------|--------------|
| Opening | - | 106.57 | 120.81 | 30.25 | 34.34 | 38.81 | 43.78 |
| Addition | 100.00 | - | - | - | - | - | - |
| Adjustment | - | - | 100.00 | - | - | - | - |
| Closing | 100.00 | 106.57 | 20.81 | 30.25 | 34.34 | 38.81 | 43.78 |
| Interest Rate | 13.1% | 13.4% | 13.3% | 13.5% | 13.0% | 12.8% | 12.4% |
| Carrying Cost | 6.57 | 14.24 | 9.44 | 4.08 | 4.48 | 4.96 | 5.44 |
| Total Gap | 106.57 | 120.81 | 30.25 | 34.34 | 38.81 | 43.78 | 49.21 |

- 1.11 The Review made out towards 'Disallowance of Carrying Cost' shall be offset against the surplus of Rs. 6.73 Cr. approved in the Order dated 04.05.2018 and additional gap arising as a result shall form subject of true-up for the FY2018-19 in the future.
- 1.12 This petition is accordingly disposed of.

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(BHANU PRATAP SINGH)
MEMBER

---SD---
(S.K.B.S. NEGI)
CHAIRMAN