ORDER

ON

REVIEW PETITION FILED BY MSPCL ON MULTI YEAR AGGREGATE REVENUE REQUIREMENT FOR CONTROL PERIOD

FY 2016-17 TO FY 2017-18

Review Petition No.1 of 2016

25.05.2016

JOINT ELECTRICITY REGULATORY COMMISSION

FOR MANIPUR AND MIZORAM

TBL BHAVAN, 2ND TO 5TH FLOOR,

PETER STREET, E-18, KHATLA, MIZORAM, 796001

PH: 0389 2336555/2335625 FAX: 0389-2336299/2335523

JOINT ELECTRICITY REGULATORY COMMISSION

FOR MANIPUR AND MIZORAM

TBL Bhawan, 2nd to 5th Floor, Peter street,

E18, Khatla, Aizwal, Mizoram – 796001

Review Petition No. 1 of 2016

In the matter of

Review Petition on Multi Year Tariff Order for FY 2016-17 to FY 2017-18 of Manipur State Power Company Ltd.

AND

Manipur State Power Company Ltd. Petitioner

(Herein referred to as MSPCL)

Present

Mr. R.K Kishore Singh

Chairperson

ORDER

(25/05/2016)

1. The Petitioner, Manipur State Power Company Ltd. (MSPCL) has filed a Review Petition on Commission's Order passed on 29.02.2016 on Annual Revenue Requirement for Control Period FY 2016-17 to FY 2017-18 under clause 38 of the JERC for M&M (Conduct of

Business) Regulations 2010 and Section 94 & 181 of Electricity Act, 2003. The Petitioner has prayed to admit the petition, examine the proposal submitted by the Petitioner for favorable dispensation, pass such other and further Orders as are deemed fit and proper in the facts and circumstances of the case.

2. Submissions made by the Petitioner and Commission's analysis are as under:

2.1 Repairs and Maintenance Expenses

Petitioner's Submission

The Hon'ble Commission had approved an amount of Rs. 4.60 Crore for FY 2016-17 and Rs. 5.29 Crore for FY 2017-18 respectively in the impugned Order dated 29th February 2016. The Hon'ble Commission had considered an annual increase of 15% over the approved value of FY 2015-16, which was approved at Rs. 4.00 Crore.

MSPCL has submitted that the repair and maintenance expenses are directly related to the gross value of fixed assets because if the value of assets are high, then expenses required to replace the asset or its spare parts or to maintain the health of the assets, are also proportionately high. The norms allowed by Forum of Regulators (FOR) for Repair & Maintenance Expenses are also based on the same principle.

In this regard, the relevant clause 22.2 of FOR Model Regulations for Multi Year Distribution Tariff which is given below:

"Repairs and Maintenance expense shall be calculated as percentage (as per the norm defined) of Opening Gross Fixed Assets for the year governed by following formula:

*R&Mn = Kb*GFAn*

Where

R&Mn: Repairs & Maintenance expenses for nth year

GFAn: Opening Gross Fixed Assets for nth year

Kb: Percentage point as per the norm"

It can be seen from the above that the FOR Model Regulations clearly provide for allowing repair and maintenance expenses as a normative percentage (to be fixed by the State Regulator) of the Opening Gross Fixed Assets at the start of the applicable year. It may be noted that the above principle is equally applicable for transmission business since the nature of business and the assets for power transmission and distribution are similar in nature. Further, MSPCL owns and operates electrical transmission and distribution network up to 33 kV as per the transfer scheme notified by the Government of Manipur. As such, the FOR Model regulations for repair and maintenance is very much applicable for MSPCL

In this context, it is also submitted that Central Electricity Regulatory Commission (CERC) in the CERC tariff regulations has provided norms for Operation and Maintenance as a whole in case of transmission business, which includes Employee cost, Administrative and General expenses (A&G) and Repair & Maintenance expenses. These norms are based on the network parameters or the asset parameters like length of various transmission lines and number of bays in various substations at different voltage levels. As such, the CERC norms also provide for calculation of O&M Expenses (including R&M expenses) based on the number of assets owned and operated by the transmission licensee.

However, the CERC norms cannot be directly applied in case of MSPCL because the CERC norms are calculated for inter-state transmission networks and are applicable only for electrical network of voltage level at 132 kV and above. On the other hand, MSPCL has electrical network of 132 kV as well as 33 kV. Further, in case of MSPCL, the components of O&M expenses i.e., Employee Expenses, A&G Expenses and R&M Expenses are allowed separately based on the actuals of the past years and future plans and projections. This is because the business conditions in the state of Manipur are different from inter-state transmission licensee or transmission utilities of other states. As such, the model regulations of FOR have been taken as the reference regulations in case of MSPCL.

In order to substantiate this ground and to benchmark the R&M expenses of other transmission companies, MSPCL is submitting the approved figure of R&M expenses in other similar states of India below:

(Rs. Crore)

Sl. No	Particulars (Figures in INR Crores)	Assam FY 2015-16	Meghalaya FY 2015-16	West Bengal FY 2015-16	Odisha FY 2015-16	Bihar FY 2015-16
1	Average Gross Fixed Assets for the year	1606.2	362.32	1104.62	3305.55	3052.91
2	R&M expenses allowed by the Commission	8.75	6.30	40.92	108.00	38.21
3	R&M Expenses as a % of Opening GFA	0.54%	1.74%	3.70%	3.27%	1.25%

It can be seen from the above table that R&M expenses are in the range of 0.5% to 3.5% of GFA depending on the actual data for past years in the particular state. Apart from the above mentioned states, other states like Punjab, Uttarakhand and Uttar Pradesh also have similar percentages of R&M Expenses in the range of 2-3% of GFA.

Based on the above, it can be concluded that the R&M expenses has to be calculated based on the value of assets at the start of the year. Now, in this context, it is submitted that the Hon'ble Commission in its impugned Order dated 29th February 2016, had allowed the figures of Gross Fixed Assets, as shown in the table below. The approved figures of GFA as well R&M expenses are compared with the actual value of GFA and R&M Expenses for FY 2013-14 and FY 2014-15 in the table given below. The account statements of FY 2014-15 are attached as Annexure B for reference in support of the actual data provided here.

(Rs. Crore)

Sl. No	Particulars	FY 2013-14 (Actual)	FY 2014-15 (Actual)	FY 2015-16 (Approved)	FY 2016-17 (Approved)	FY 2017-18 (Approved)
1	Gross Fixed Assets at the start of the year	191.44	320.40	656.58	1118.33	1704.86
2	Year on Year increase for GFA	-	67%	105%	70%	52%
3	R&M Expenses	-	4.26	4.00	4.60	5.29
4	Year on Year increase for R&M Expenses	-	-	-6%	15%	15%
5	R&M Expenses as a % of Opening GFA	-	1.33%	0.61%	0.41%	0.31%

It can be observed from the above table that the GPA figures which are allowed by the Hon'ble Commission in the impugned Order dated 29th February 2016, are increasing year on year by 105%, 70% and 52% in FY 2015-16, FY 2016-17 and FY 2017-18 respectively. As against this, the approved R&M expenses have been increased by only 15% in FY 2016-17 and FY 2017-18 only. As a result of this, the percentage of R&M Expenses of Opening GFA, which was 1.33% in FY 2014-15 as per the actual data, has decreased substantially to 0.41% and 0.31% in FY 2016-17 and FY 2017-18 respectively. As such, the figures of approved R&M expenses are not in consistency with the approved GFA figures.

MSPCL would like to submit that as evident from the above figures, there has been substantial addition of assets in the last two years and the same is expected to continue in the future years. The latest actual data of capital expenditure incurred in the current year (up to December 2015) is attached here as Annexure-A to substantiate the huge addition of assets added in the system and those in pipeline which shall be added in the coming years.

With this substantial quantum of assets to be added, the requirement of R&M expenses shall also increase proportionately and the approved increase of 15% is clearly not sufficient to meet the requirement. If these assets are not properly maintained and repaired, the whole objective of addition of assets would be meaningless as the licensee shall not be able to meet the norms of transmission system availability and also meet the increasing demand within the state.

As such, it is required that the R&M expenses may be allowed as 0.69% of opening GFA for the present control period, in line with the actual data of past years and also in accordance with the FOR Model Regulations. This percentage may be reviewed later based on the actual expenditure incurred. The R&M Expenses calculations are shown below:

(Rs. Crore)

Sl. No	Particulars	FY 2016-17	FY 2017-18
1	Gross Fixed Assets at the start of the year	1118.33	1704.86
2	R&M Expenses as a % of opening GFA	0.69%	0.69%

Sl. No	Particulars	FY 2016-17	FY 2017-18
3	R&M Expenses proposed	7.68	11.76
4	R&M Expenses approved in the impugned Order dated 29.02.2016	4.60	5.29
5	Additional R&M Expenses proposed in his Review Petition	3.08	6.47

Commission's analysis

Regulation 62.5 of the JERC for Manipur and Mizoram (Multi Year Tariff) Regulations 2014 specify:

(i) Existing Transmission Licensee:

(a) Operation and Maintenance expenses or O&M expenses shall mean the total of all expenditure under the following heads:-

(1) Employee cost

(2) Repairs and Maintenance

(3) Administration and General expenses

(b) The Licensee shall submit O&M expenses budget indicating the expenditure under each head of account showing actuals of the last financial year, estimates for the current year and projections for the next financial year.

(c) The norms for O&M expenses on the basis of circuit kilometres of transmission lines, transformation capacity and number of bays in substations shall be submitted for approval of the Commission.

(d) The Commission shall verify the budget estimates and projections and allow the expenditure depending on its views about the reasonableness of the projections

(e) Increase in O&M expenses due to natural calamities or insurgency or other factors not within its control may be approved by the Commission

(ii) For new Transmission Licensee:

For the new transmission licensees, the year-wise O&M norms shall be determined on case to case basis:

Provided that the same shall not be applicable to those new projects which are awarded on a competitive bidding basis.

The above Regulations clearly specify that O&M expenses shall be based on norm for O&M expenses on the basis of circuit kilometres of transmission lines, transformation capacity and number of bays in substations for the control period.

The Regulations do not permit to determine the Repairs and Maintenance expenses as a percentage of Opening Gross fixed Assets.

The MSPCL is in operation from 01.02.2014 and accordingly accounts are maintained separately w.e.f.01.02.2014. The MSPCL has not furnished audited accounts for FY 2014-15. The MSPCL has also not furnished the details of length of transmission lines, transformer capacity, number of bays in substations, etc. Hence, the Commission could not determine/ arrive at the norms for O&M expenses for the control period in terms of Regulation 62.5.

As such, the Commission has considered the components of O&M expenses i.e. Repairs and Maintenance Expenses, Employee expenses and Administration & General Expenses separately for the purpose of determination of ARR for control period FY 2016-17 to FY 2017-18 and Tariff for FY 2016-17 subject to true up based on the audited accounts.

2.2 Employee Expenses

Petitioner's submission

Under the head of Employee Expenses, the Hon'ble Commission had approved an amount of Rs. 31.95 Crore for FY 2016-17 and Rs. 38.34 Crore for FY 2017-18 respectively, in the Impugned order dated 29th February 2016. The Hon'ble Commission had considered an annual increase of 20% over the approved value of FY 2015-16, which was approved as Rs. 26.62 Crore.

MSPCL would like to submit that the increase of 20% considered by the Hon'ble Commission is not sufficient to cover the projected expenses primarily because MSPCL is suffering from huge manpower deficit and to meet this manpower gap, it has already initiated a process of direct mass recruitment of 434 employees, which is in advanced stage. The impact of new recruitments in the current year shall itself around Rs. 7.5 crores, which is around 30% of the approved expenses of FY 2015-16. As such, the increase of 20% is not sufficient to cover the legitimate employee expenses proposed for FY 2016-17 and FY 2017-18. In order to substantiate this claim, MSPCL is submitting the latest facts and information below:

- Status of the new recruitments along with board approval for recruitment and notices published for call of candidates,
- Financial Impact of the new recruitments,
- Actual Employee Cost in FY 2015-16 upto February 2016

As submitted by MSPCL in the MYT petition, MSPCL has existing employee strength of 874 as against the sanctioned strength of 1585. The sanctioned strength was also approved by the Board of MSPCL on 7th August 2014, wherein an in-principle approval was also provided for filling the vacant posts. As such, MSPCL is presently working with only 55% of the sanctioned strength. In addition to this, there is a huge addition of assets in the last two years and expected to further increase in the next two years. In order to meet this gap, MSPCL has already initiated the process of recruitment of 463 employees in the first phase.

After getting the approval of sanctioned strength of 1585 as provided above, MSPCL decided to fill the vacant posts in phases as the gap was huge. Subsequently, the direct recruitment of 170 posts was approved in the Board Meeting held on 17th October 2014 and thereafter recruitment of 13 posts and 50 posts were additionally approved in the Board Meetings held on 30th December 201 and 24th January 2015 respectively.

Based on the above approvals, a notice was published on 24th June 2015 to invite applications to fill a total of 233 posts (170+50+13).

However, in the meantime, MSPCL felt that the number of posts which were required to be filled immediately was much more than the open posts of 233, for which the application was invited and the same has to be extended in order to meet the immediate need.

Accordingly, an approval for direct recruitment of additional 201 posts was taken in the Board Meeting held on 1st September 2015 and the same were proposed to be included in the ongoing recruitment process.

As such, a fresh notice was issued to recruit a total of 434 (233+201) employee across various categories on 5th December 2015.

The last date for receiving applications has already ended and the admit cards are being currently prepared for the written test of the shortlisted candidates.The total number of applications received is given below for reference.

Sl. No.	Category of Vacancy	Total Applications received
1	Junior Establishment Assistant	9323
2	Switch Board Assistant	401
3	Grade IV (For Watchman/ Junior Technical Assistant/ SB Junior Assistant)	15215

As such, since the process has started long back and is in advanced stage, the same is expected to be completed within May 2016 and the new employees are expected to join MSPCL from June 2016. As a result, MSPCL has to incur around 10 months of expenditure of new ongoing recruitments. The financial impact of the recruitments is tabulated below.

Sl. No.	Category of Post (Figures in INR)	No. of posts	Basic Pay	Grade Pay	DA (113%)	Others (HRA/SCA etc)	Total Monthly Pay	Financial Implication for 10 months
1	Junior Establishment Assistant	32	5830	1900	8735	2773	19238	6156160
2	Switch Board Assistant	68	5830	1900	8735	2773	19238	13081840
3	SB Junior Assistant	100	4930	1650	7435	2258	16273	16273000
4	Junior Technical Assistant	200	4930	1650	7435	2258	16273	32546000
5	Watchman cum Cleaning Assistant	34	4750	1300	6837	2205	15092	5131280
	TOTAL							**73188280**

Apart from the above, another phase of the recruitment of around 200 employees is expected to start from the end of calendar year 2016 and completed within June 2017. The impact of the second phase shall be incurred in FY 2017-18. The total impact of the recruitment in FY 2017-18 is expected to be around Rs. 13 Crore (Rs. 9 Crore for 463 ongoing and Rs. 4 Crore for second phase of 200 recruitments).

In addition to the above submissions, MSPCL would also like to submit the actual employee cost in current year FY 2015-16 upto February' 2016 and request the Hon'ble Commission to consider the same for further projection of cost of existing employees.

Sl. No.	Particulars (Figures in INR Crores)	Amount
1	Total Employee Expense in FY 2014-15	23.15
2	Total Employee Expense in FY 2015-16 (upto February 2016)	25.47
3	Total Expected Employee Expense for FY 2015-16	**27.90**

MSPCL is projecting an increase of 8% in the salaries of the existing Employee Expenses in the next two years, thereby increasing the cost of existing employees to Rs. 30.13 Crore in FY 2016-17 and Rs.32.54 Crore in FY 2017-18. The total Employee cost proposed in this review petition is summarized in the table given below:

(Rs. Crore)

Sr. No.	Particulars	FY 2016-17	FY 2017-18
1	Employee Cost of existing employees	30.13	32.54
2	Impact of new recruitments (463 in FY 2016-17 and 200 in FY 2017-18)	7.32	13.00
3	Total Employee Expenses	37.45	45.54
4	Approved Employee Expenses in the impugned order dated 29th February 2016	31.95	38.34
5	Gap proposed to be allowed in review petition	5.50	7.20

Commission's Analysis

In the ARR and Tariff Petition, the MSPCL has projected employee expenses at Rs. 42.38 Crore and Rs.64.89 Crore for FY 2016-17 and FY 2017-18 respectively. Now in the review petition, the Petitioner has reduced the projection to Rs. 37.45 Crore and Rs.45.54 Crore, while the Commission in its Tariff Order dated 29th February 2016, has considered Rs. 31.95 Crore and Rs. 38.34 Crore for FY 2016-17 and FY 2017-18 respectively.

The MSPCL has proposed mass recruitment of manpower during the control period. The recruitment process is still in progress and is expected to be completed in May 2016 (as stated in the review petition). The additional employee expenses incurred by the Petitioner over and above the employee expenses considered for the control period will be allowed in the true up along with carrying cost.

2.3 Depreciation

Petitioner's submission

For depreciation, the Hon'ble Commission had allowed depreciation of Rs.0.14 Crore in FY 2016-17 and Rs. 0.23 Crore in FY 2017-18, based on an average depreciation rate of 1.60% on the average GFA.

MSPCL would like to submit that the average depreciation rate of 1.6% is not in accordance with the deprecation rates of JERC as notified in the JERC MYT Regulations 2014. The average depreciation rate has been calculated below based on the depreciation rates notified in JERC MYT Regulations 2014.

(Rs. Crore)

Asset Categories	Asset Value as on 31.03.2015	Depreciation Rate
Plant & Machinery	301.37	5.28%
Buildings	25.24	3.34%
Furniture & Fittings	0.23	6.33%
Office Equipments	0.08	6.33%
Vehicles	0.30	9.50%
Weighted Average Depreciation Rate		5.14%

It is observed that most of the assets of MSPCL (more than 90%) are in category of "Plant & Machinery" and the same has a depreciation rate of 5.28% as per JERC MYT Regulations 2014. As such, it is not possible that the weighted average rate of depreciation for MSPCL can be 1.6%. MSPCL requests the Commission to allow depreciation on the weighted average rate of 5.14% as calculated above.

The proposed calculations of depreciation are shown in the table below:

(Rs. Crore)

Sl. No.	Particulars	FY 2016-17	FY 2017-18
1	Average GFA as approved in the impugned order dated 29th February 2016	887.46	1411.60
2	Proposed depreciation @ 5.14% on 1% of average GFA	0.46	0.73
3	Approved Depreciation in the impugned order dated 29th February 2016	0.14	0.23
4	Gap proposed to be allowed in review petition	0.32	0.50

Commission's Analysis

The Commission has considered the value of opening GFA at Rs. 327.23 Crore and addition of GFA as proposed by the Petitioner year on year and computed depreciation and factored in to the ARR for the control period.

The Commission observes that with the given data vide table 9 of ARR petition, the average rate of depreciation works out to 5% as detailed below:

Sl. No.	Particulars	Amount (Rs. Crore)
1	Opening value of GFA as on 31.03.2015	194.64
2	Additions during FY 2015-16	329.36
3	Closing GFA as on 31.03.2016	524.00
4	Average GFA (1+3)/2	359.30
5	Total depreciation for FY 2015-16	18.10
6	Average rate of depreciation (5/6) (%)	5%

The Commission has erroneously depicted the Depreciation computation in the table 6.13 of the Tariff Order. But, the Commission has considered depreciation for FY 2016-17 (Rs. 0.38 Crore) and FY 2017-18 (Rs. 0.65 Crore) vide Table 6.19 in the ARR. Thus, the difference in depreciation for FY 2016-17 and FY 2017-18 are as detailed in table below:

(Rs. Crore)

Sl. No.	Particulars	FY 2016-17	FY 2017-18
1	Average GFA	887.46	1411.60
2	Average rate of depreciation	5%	5%
3	Depreciation for the year	44.40	70.60
4	1% of depreciation	0.44	0.70
5	Depreciation approved in Order dated 29.02.2016	0.38	0.65
6	Difference	0.06	0.05

However, the Commission will consider the value of GFA and depreciation based on audited accounts in the truing up process subject to prudence check and accordingly, the differential depreciation will be allowed in the true up for the respective financial years.

3. Judgment

In view of the observation and findings of the Commission elaborated in Para 2 of the Order, the Review Petition of the Petitioner is allowed. The costs, if any, based on the true up will be considered in the subsequent year Tariff Order along with carrying cost.

A copy of the Order may be sent to the Petitioner, MSPCL. The Order may be placed on the website of the Commission.

29.2.16

(R.K. Kishore Singh)

Chairperson