

**JOINT ELECTRICITY REGULATORY COMMISSION
FOR MANIPUR AND MIZORAM**

TBL Bhawan, 2nd to 5th Floor, E-18, Peter Street, Khatla, Aizawl, Mizoram-796001

REVIEW PETITION NO. 1 OF 2022

In the matter of

**Review Petition No.1 of 2022 submitted by Manipur State Power
Company Limited against the impugned MSPCL Tariff Order
Dt.23.03.2022**

AND

**Manipur State Power Company Limited (MSPCL) - Review
Petitioner/Licensee**

Vrs

**Joint Electricity Regulatory Commission for the states of Manipur &
Mizoram**

PRESENT: **1. Mr. R.THANGA
 CHAIRPERSON**
 **2. Mr. LALCHHARLIANA PACHUAU
 MEMBER**

DATE: **16thJune, 2022 (Thursday)**

O R D E R

- 1.** The licensee - Manipur State Power Company Limited (hereinafter referred as MSPCL) vide its letter No.26/2/ED (TECH) / MSPCL / 2014 / 58-65, Dt.05.05.2022 had submitted a Review Petition and received by the JERC (M & M) on 5th May 2022. The Petition is numbered as Review Petition No.1 of 2022. On confirmation of receipt of Petition fee on 23rd May, 2022 the Review

Petition was laid before the Hon'ble Commission for orders on 7th June 2022 (Tuesday).

2. On scrutiny of the petition and fees submitted by the Review Petitioner the Hon'ble Commission vide its order dated 7th June 2022 (Tuesday) admitted the same and fixed 16th June 2022 for further orders and issued Notice to the Review Petitioner accordingly.

3. In the review petition, the petitioner MSPCL being aggrieved with the following two issues stated that there are errors apparent on the face of the record and submitted that there were sufficient grounds as mentioned thereafter for review of the impugned Tariff Order for FY 2022-23, dated 23.03.2022. The components of the impugned Tariff Order referred to by the MSPCL for review are as below:
 - (1) Relating to derived Surplus for the FY 2020-21 and
 - (2) Relating to calculation Transmission Tariff (Rs./MW/Day) for FY 2022-23

4. The Prayer of MSPCL relating to derived Surplus for the FY 2020-21 has been narrated below:-

Surplus/Gap of the Aggregate Revenue Requirement for the FY 2020-21.

Licensee's Submission:

- (i) The Hon'ble Commission at para 5.10 of the tariff order has observed as follows:

"In view of the foregone paras on each expenditure element of the ARR claimed by the MSPCL for the FY 2020-21, for some cost elements the Commission could provide indicative ARR amounts provisionally and while in certain other cost elements audited accounts were required to express its decision of their approval. If there was a surplus amount of Rs.16.39 Crs received in 2020-21, the excess so recovered must have been adjusted in 2022-23 ARR cost, but the MSPCL filing did not reflect it so in the present filing for 2022-23"

- (ii) The Hon'ble Commission has further observed as follows:

"It is to suggest MSPCL to submit the true-up petition once again separately for FY 2020-21 so that Commission would be in a position to examine and scrutinize the costs actually spent upon the Statutory Auditors approved audited Accounts for 2020-21 is made available in this matter since there is no regulatory provision to carry-out provisionally once & final true-up later for the same period. Any true-up once made will not be revisited. Hence the concept of provisional & final true-up by licensee may not be expected hereafter."

- (iii) The Hon'ble Commission has observed above that True-up can be done only when Statutory Auditors approved audited Accounts for FY 2020-21 is made available. There is no regulatory provision to carry-out true-up provisionally once & final true-up later for the same period. It is further observed by the Hon'ble Commission that any true-up once made will not be revisited. Hence, the Hon'ble Commission has not done the True-up for the FY 2020-21.
- (iv) However the Hon'ble Commission has considered Rs. 16.39 Crs. as surplus for the FY 2020-21 and adjusted from the ARR of the FY 2022-23. This appears to be contradictory as Gap/Surplus cannot be recognized without approving the True-up for any financial year. Hence, it is an error apparent from the records and needs to be reviewed.
- (v) The Hon'ble Commission has considered Rs. 76.39 Crores as revenue of MSPCL for the FY 2020-21 in the Tariff Order and accordingly, the surplus of Rs. 16.39 Crs (Rs. 76.39 Crores - 60.00 Crores) has been calculated.
- (vi) However the actual revenue/receipt during the FY 2020-21 is Rs.65.25 crore. Copy of the same is attached as Annexure-I for reference. Hence, this is error apparent from records and needs to be reviewed.
- (vii) Notwithstanding the above error apparent from the record, it is further submitted that True-up is done based on the actual components of ARR for the financial year calculated as per provisions of the Regulations & actual revenue for the financial year. However, the Hon'ble Commission has compared the ARR approved in the APR order Dt. 26.04.2021 (Rs. 76.39 Crores) with the actual ARR (60.00 Crores) for the year FY 2020-21. The MSPCL has not received the ARR of Rs. 76.39 Crores approved in the APR order Dt. 26.04.2021 as revenue.

(viii) The Hon'ble Commission ought to have compared the actual ARR of Rs.60.00 Crores (Trued-up) with actual Revenue of Rs. 65.25 Crores to arrive at the Gap/Surplus instead of comparing the actual ARR with the ARR (approved in the APR order Dt. 26.04.2021) of Rs. 76.39 Crores. This is an error apparent from record and needs to be reviewed. The details of the figures considered by the Hon'ble Commission & actual figures are provided below.

Sl. No.	Description	Approved in the Tariff Order Dt.23.03.2022 (in Rs.Crs)	Actual as per Accounts (in Cr.)
A.	Revenue for the FY 2020-21	76..39	65.25
B.	Actual expenses as per our True-up Petition	60.00	60.00
C.	Surplus for the FY 2020-21 (A-B)	16.39	5.25

(ix) Therefore, it is requested to the Hon'ble Commission to review the order and consider the actual surplus of Rs.5.25 Cr. instead of Rs.16.39 Cr. for arriving at the Net ARR for the FY 2022-23.

(x) Further, it is also requested to the Hon'ble Commission to consider same method while approving the True-up for remaining years.

5. COMMISSION'S OBSERVATIONS:

(i) The Licensee MSPCL, in their ARR filing proposals for FY 2022-23, dated 20th December 2021, had submitted that their ARR surplus for FY 2020-21 is Rs.16.39 Crs at Table-14 (Page-31) and made the following request has been adopted in their earlier True-up submissions also:

“The variation in approved and actual ARR for FY 2020-21 as shown in table above (Table-14) is not proposed to be carried forward in the tariff of ensuing year as the Annual Accounts for FY 2020-21 are yet to be audited. Accordingly, MSPCL request the Commission to undertake any adjustment on account of truing-up only after the availability of the audited accounts for FY 2020-21”.

- (ii) As can be inferred from the above para, the Books of Accounts of MSPCL were finalised with an actual aggregate Revenue of Rs.60.00 Crs pertaining to FY 2020-21 and are due for Statutory Auditors to conduct/carry-out the required audit. It is to be highlighted that MSPCL while submitting the ARR for FY 2022-23 on 20th December 2021, it had deliberately concealed and had not disclosed any kind of particulars about the Government subsidy amount of Rs.65.2473 Crs it had received for FY 2020-21.
- (iii) In addition, when Commission specifically enquired about the receipt of Government subsidy if any relating to FY 2020-21 through queries (Additional Information-I), the MSPCL had replied to it as “**Not applicable**” vide letter No.26/2/ED(TECH)/MSPCL/204/541-45, Dt.25th January 2022. However, the MSPCL on its own accord had disclosed the receipt of Rs.65.25 Crs as its revenue in FY 2020-21 in the form of Government subsidy through this Review Petition by appending the Annexure-I for reference.
- (iv) As and when ARR for MSPCL is determined by the Commission for Transmission entity the same amount will be reflected as intra-state transmission charges in the ARR computation of Distribution Corporation (MSPDCL). On behalf of MSPCL, this procedure was adopted by the Commission with an unswerving belief that, the MSPDCL would recover that much amount of intra-State Transmission charges from their retail Consumers in that relevant year (**i.e. FY 2020-21**) and remit/repay it back in full to Transmission entity invariably in good faith. On the other hand, the MSPCL (transmission entity) shall ensure full recovery of such an amount from MSPDCL (Distribution entity) by the end of that financial year. In the instance case, the MSPDCL had promptly levied these charges upon all its retail consumers during FY 2020-21 and had recovered these transmission charges. Hence, **Rs.77.01 crs** of intra-State transmission charges were construed to have promptly recovered by MSPDCL and were physically lying with it for ultimate repayment to MSPCL. Besides, it is the bounden duty of the MSPCL (Transmission entity) to collect the amount from MSPDCL (Distribution entity) if the

Transmission availability is 98% or above since those charges were already levied and recovered from the retail consumers and it was already taken into account in the Retail Tariff rates notified for FY 2020-21.

- (v) As per clause 10.3 of the JERC for Manipur and Mizoram (Multi Year Tariff) Regulations, 2014, the scope of the trueing up shall be a comparison of the performance of the Generating Company or Transmission Licensee or Distribution Licensee with the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges and shall comprise of the following:
 - (a) a comparison of the audited performance of the applicant for the previous financial year with the approved forecast for such previous financial year, subject to the prudent check including pass-through of impact of uncontrollable factors;
 - (b) Review of compliance with directives issued by the Commission from time to time;
 - (c) Other relevant details, if any.

- (vi) Although the need to review the True-up Order for FY 2020-21 does not arise at all due to the data furnished at a later date, it is observed that it is necessary to review the surplus in line with the Regulation mentioned at para 5 (v) supra and in doing so, the Commission has taken up this review on its own accord also as per the relevant provisions stipulated under 7(4) and 11(1) of JERC(M&M) Conduct of Business Regulations 2010 with latest amendments and based on Section 94(1) and other relevant enabling provisions of the Electricity Act 2003, making reference to the approved ARR of Rs. 77.01 Crs in the Tariff Order dt.20.3.2020 and taking into consideration that out of total grants-in-aid of Rs.65.25 Crs claimed now as revenue, Rs.6.55 Crs pertains to Grants made for creation of capital assets and the balance Rs.58.70 Crs to be treated as Grants of Revenue nature. Hence, the provisional revenue deficit is determined in this review as Rs.18.31 Crs (i.e., Rs.77.01 crs minus Rs.58.70 crs). The need and relevance as to the quantum of Revenue natured grants for true-up purpose will have to be dealt appropriately when take-upwith Audited

Accounts duly approved by the Statutory Auditor for the FY 2020-21 and **hence, the surplus adopted for the FY 2020-21 in the Tariff Order dt.23.03.2022 amounting to Rs.16.39 Crs is withdrawn.**

(vii) The Commission could not understand as to what precludes MSPCL from levying transmission charges on MSPDCL on monthly basis while it is undauntedly levying and collecting the SLDC charges without any constraint, while extending the full-fledged transmission activity. There is no hindrance preventing the MSPCL from raising the monthly invoice towards recovery of transmission charges for the services it is rendering year after year? **Henceforth, any Grants of Revenue nature for MSPCL shall duly pass through the MSPDCL since recovery of Transmission ARR is to be made from MSPDCL as per Tariff Orders.**

(viii) The Commission observed that MSPCL could manage its activities in 2020-21 by Rs. 65.24 crore (Grant-in-Aid capital asset Rs. 6.555 crore + Revenue Grant-in-Aid Rs. 58.685 crore, as per appendix I of review petition). As it is evident that MSPCL did not claim the amount of Rs. 77.01 crore from MSPDCL of their ARR which was reflected in MSPDCL ARR of 2020-21 and retail tariff for that year. MSPCL should reduce its ARR by deducting the expected Grant-in-Aid for Capital Asset making in the next ARR petition 2023-24 which will lessen the burden of Retail consumers.

(ix) The Commission insist that whatever direct claim or receipt to / from state Govt. by MSPCL on account of Grant-in-Aid in the form of Revenue subsidy (salary or non-salary) should be with the knowledge of MSPDCL who will record the same and deduct it from Intra-transmission charge to be transferred / given to MSPCL with effect from current year 2022-23.

6. The Prayer of MSPCL relating calculation Transmission Tariff (Rs./MW/Day) for FY 2022-23 has been narrated below:-

Calculation of Transmission Tariff (Rs. /MW/Day) for the FY 2022-23.

Licensee's Submission:

- (i) It is submitted that the Hon'ble Commission has calculated the Transmission Tariff (Rs./MW/Day) for the FY 2022-23 at table-7.20 of the Tariff Order Dt. 23.03.2022. The Hon'ble Commission has considered the method of dividing monthly transmission tariff by 31 days for approval of transmission tariff per Rs./MW/Day. However, this would result in under recovery of the approved ARR for the same Year. In any financial year approved ARR should be divided by the approved contracted capacity and 365 days to calculate the Transmission Tariff Rs./MW/Day. Hence, there is an error apparent from the record and needs to be reviewed.
- (ii) Therefore, it is requested that the Hon'ble Commission may kindly consider the above method for **calculating Transmission Tariff (Rs./MW/Day).**

7. COMMISSION'S OBSERVATIONS:

- (i) On one hand, the Licensee stated that by arriving the monthly transmission charges per Rs./MW/Day adopting 31 days would result in under recovery of the approved ARR for the same year and therefore pleading for rectification.
- (ii) On contrary to the above plea, the Licensee **MSPCL vide their letter No.26/2/ ED(TECH)/MSPCL/2014/593-96, Dt 8th March 2022** in response to the list of additional information-II called for by the Commission on the ARR filing proposals for FY 2022-23, dt. 20th December 2021, had submitted the following response to a question of **providing photo-copies of the monthly invoices raised on MSPDCL during FY 2020-21 towards recovery of intra-state transmission revenue from MSPDCL.** The reply given by MSPCL is reproduced below:

"MSPCL Reply: MSPCL and MSPDCL both being Government owned companies, all expenses are borne by the Government of Manipur in the form of Grant-in-aid for which separate head of Account is provided in **Annual Budget Estimate.** All the

expenditure of Salary, OE & OM etc. are to met from Transmission charges to be levied from MSPDCL as Wheeling charges for utilisation of transmission/sub-transmission assets of MSPCL at the rate fixed by JERC(M&M). **Till date, MSPCL is not raising invoices to MSPDCL towards recovery of transmission revenue.** MSPCL received funds as transmission revenue from the state government in the form of grant-in-aid which is provided through MSPDCL. At present, there is no agreement between MSPCL and MSPDCL in this regard and MSPCL will start raising recurring invoices after enactment of such as agreement.”

- (iii) As seen from the above reply of MSPCL, there is no active billing system in place till date to raise monthly invoices either on MSPDCL or on short-term open-access consumers (on daily basis) towards recovery of transmission charges since inception of both the entities in 2014 and thereby finds no identified need/purpose on the part of MSPCL to request the Commission for review on this probable ground of under recovery of approved ARR. However, in view of the inadvertent error in the calculation, the Commission accedes to consider its plea to review & revise the calculation of Transmission Tariff (Rs./MW/Day) for FY 2022-23.
- (iv) In doing so, the provisional true-up claw back amount of Rs.16.39 Crs needs to be withdrawn from the ARR of FY 2022-23 for the reasons mentioned in earlier paras in detail. It is also observed that the intra-state transmission cost amount is required to align and match with that of Distribution ARR component amount already factored in MSPDCL ARR for determination of retail tariff applicable for FY 2022-23. Therefore, the Commission has taken up the review on its own accord also as per the relevant provisions stipulated under 7(4) and 11(1) of JERC (M&M) Conduct of Business Regulations 2010 with latest amendments and based on Section 94(1) and other relevant enabling provisions of the Electricity Act 2003. In this process of review exercise now adopted by the Commission, a re-determined ARR amount for MSPCL is now being issued suitably revising upward/downward revision to each cost element wherever felt needed duly overriding the Tariff

Order amount already approved for the financial year 2022-23, issued on Dt.23rd March 2022.

8. In view of the Commission's observations at para 5 above, MSPCL is directed to file True-up Petition for FY 2020-21 supported with the Audited Accounts, extracts of books of accounts and such other details as the Commission may require to access the reason for and extent of any variation in financial performance from the approved forecast of ARR & Tariff for the FY 2020-21 at an early date.

9. In line with the Commission's observations at para 5 and 7 above, the Commission re-determines the Aggregate Revenue Requirement for FY 2022-23 of MSPCL (Transmission Licensee) after carrying out the needed adjustments to each cost components of ARR submissions already made by MSPCL as per the table indicated below:

MSPCL Aggregate Revenue Requirement for FY 2022-23

Table 1: Re-determined ARR consequent upon Review by Commission

Figures Rs. in crore

Expenditure details (for FY 2022-23)	ARR Filed (MSPCL)	As per Tariff Order Dt.23.03. 22	Re-determined ARR upon review
Employee Expense	81.11	68.4 6	81.11
R &M Expense	10.56	10.5 6	10.56
A&G Expense	4.00	4.00	4.00
Depreciation	1.80	1.44	1.80
Interest on Loans	0.00	0.00	0.00

Expenditure details (for FY 2022-23)	ARR Filed (MSPCL)	As per Tariff Order Dt.23.03. 22	Re-determined ARR upon review
Return on Equity	1.83	1.56	1.56
Interest on working capital	5.17	0.00	0.00
Income Tax	0.00	0.00	0.00
Gross ARR amount	104.46	86.02	99.03
Less: Non-Tariff Income	10.60	10.60	5.17
Less: Expenses capitalized	0	0.00	0
Less: Surplus accrued in FY2020-21	--	16.39	Nil
Net ARR	93.86	59.03	93.86

10. All the MSPCL proposed ARR expenditure elements for FY2022-23 in their ARR submission were all approved at full value by Commission at the expenditure level proposed by the Licensee except the reduction adopted in the case of **Return on equity at Rs.1.56 Crs** as against proposed Rs.1.80 Crs and **Nil amount towards Interest on working capital** as against Rs.5.17 Crs proposed in the ARR submission. The detailed reasons as enumerated in the FY 2022-23 Tariff Order Dt. 23.03.2022 for the reductions so adopted in case of both Return on equity & Interest on working capital will still hold good even after this review process. As a result of the above review-based approval, the Gross ARR amount now works out to **Rs.99.03 Crs** while the licensee preferred to claim at Rs.104.46 Crs as per its ARR filing submission. At the same time **Non-Tariff income amount** of only **Rs.5.17 Crs** was considered for approval in this ARR review process by the Commission undertaken on its own accord in order to be more conservative as against ARR proposed NTI value of Rs.10.60 Crs. Thereby the re-determined Net ARR after the review made by the Commission is now at **Rs.93.86 Crs** which equates with the value preferred by the Licensee through ARR filing submission made for FY 2022-23 and with that of Intra-state transmission tariff factored in MSPDCL ARR approved.

Table 2: Detailed of approved Energy handled by MSPCL for FY 2022-23

Energy handled by MSPCL	Units	ARR filed FY22-23	After Review
Total Energy Purchased from all CGS	MU	1022.01	1022.01
Add: IEX Purchases	MU	102.46	31.45
Add: Return of Banking Energy	MU	80.00	80.00
All Energy Purchases from all sources (of ISTS)	MU	1204.47	1132.46
Inter-State transmission loss in NER	%	3.02%	2.54%
Inter-State transmission loss in NER	MU	38.54	28.76
Net CGS energy Input at State periphery (4-5)	MU	1165.93	1103.70
Add: Banking to outside utilities	MU	80.00	80.00
Add: Energy Sold at IEX	MU	92.26	35.00
Available Energy for Transmission (MU)	MU	1338.19	1218.70
Intra-State Transmission (MSPCL) Loss %	%	8.50%	7.80%
Trans. Loss in Units (MU)	MU	113.75	95.06
Net Energy after Transmission Losses (MU)	MU	1224.44	1123.64

11. Recovery of transmission ARR and transmission tariff approved for FY2022-23

Currently, MSPCL has only one long-term transmission customer which is the distribution licensee (i.e., MSPDCL). As such, MSPCL shall make earnest endeavour to recover the entire transmission ARR from MSPDCL on monthly basis. The proposed tariff by MSPCL and the re-determined tariff by the Commission after review for FY 2022-23 is provided in the table below:

Table 3: Transmission Tariff for FY 2022-23 re-determined after Review

SI No	Particulars for FY 2022-23 (for MSPCL)	Unit	ARR Filed	As per Review Order
1	Transmission ARR amount (T.A at 98% applicability)	Rs. Crs	93.86	93.86

SI · N o	Particulars for FY 2022- 23 (for MSPCL)	Unit	ARR Filed	As per Review Order
2	Monthly Transmission Tariff (for T.A at 98%)	Rs.Lakhs per month	782.17	782.17
3	Transmission Capacity (MWs)	MW	280	254.38
4	Monthly Transmission Tariff (based on MWs)	(Rs.Lakhs /MW/Month)	2.79	3.07
5	Transmission Tariff (day based)	(Rs./MW/day)	9183.95	10108.92
6	Energy available for Transmission	MU	1376.73	1123.64
7	Transmission Tariff (Unit based)	Rs./kWh	0.6818	0.835

(T.A denotes: Transmission Availability)


- 12.** As such MSPCL shall have to recover their monthly transmission cost from MSPDCL as indicated supra upon keeping the Transmission availability at 98% or above, the recovery shall be on pro-rata basis if T.A. is below 98%. At zero availability, no transmission charge shall be payable. **The MSPCL shall raise and serve Intra-State transmission bills every month from 1st April 2022 onwards to the MSPDCL.**

- 13.** The transmission charge payable for any open access customer utilizing the transmission system shall be determined at transmission tariff of Rs.10108.92 per MW per day or Rs.0.835 per kWh of energy transmitted. The revenue earned from the open access customers should be duly recorded to be considered in true-up.

- 14.** As the actual monthly electricity transmitted to MSPDCL is required to be known, the MSPCL shall submit various Interface energy metering points and their geographical locations presently in existence & usage and also other areas identified recently for installation of such interface energy meters. The MSPCL shall install reliable meters at the interface points duly agreed to & approved by both MSPCL and MSPDCL.

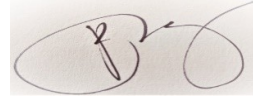
- 15.** The instant Review Petition No. 1 of 2022 is partially allowed in terms of the aforesaid observations of the Hon'ble Commission above and disposed of accordingly this 16th day of June 2022.

16. MSPCL shall take necessary steps in terms of this Hon'ble Commission Order accordingly.



(LALCHHARLIANA PACHUAU)

MEMBER



(R.THANGA)

CHAIRPERSON

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