

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
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**Case No. 49 of 2017**

**Dated: 8 June, 2017**

**CORAM: Shri Azeez M. Khan, Member  
Shri. Deepak Lad, Member**

**Petition of The Tata Power Company Limited-(D) under Regulation 101 (Power to amend) r/w Regulation 102 (Power to remove difficulties) of the MERC (MYT) Regulations, 2015, seeking to reconsider and suitably clarify / relax / modify the**

- i) methodology for computation of Base O&M Expenses for Distribution Supply Business for the 3<sup>rd</sup> Control Period**

**and**

- ii) the methodology for computation of Escalation Rate for determining the Distribution Wires and Supply Business specified under the MYT Regulations, 2015.**

The Tata Power Company Limited (TPC-D)

.....Petitioner

**Appearance:**

For the Petitioner:

Shri. Hemant Sahai (Adv.)

For the Consumer Representative:

Shri. Ashok Pendse, TBIA

**Daily Order**

Heard the Advocate of Petitioner and Consumer Representative, Advocate of the Petitioner stated as follows:

1. The Operation and Maintenance (O&M) Expenses norms are stipulated under Regulation 78 of MYT Regulations, 2011. It states that the Distribution Licensee shall be permitted to recover O&M expenses relating to the Wires and Supply Business as per the norm specified for each year of the Control Period. However, in the norms specified for Retail Supply business in respect of the Petitioner, it is zero with regards to the numbers of consumers.

2. The Commission, in its Order dated 15 October, 2009 in Case No. 50 of 2009, allowed migration of consumers from RInfra-D to TPC-D for supply and set out detailed protocol. This led to increase in the number of consumers of TPC-D and an increase in sales, and the corresponding impact was felt in FY 2009-10 after implementation of the Order. There was high increase in sales of 101%. TPC-D submitted that it was discriminated against on this account vis-à-vis other Distribution Licensee, which were given norms based on the number of consumers.
3. Post vacation of the stay in Case No. 121 of 2008 dated 9 September, 2010, there had been large migration from RInfra-D to TPC-D, which culminated increase in consumer base and sales of TPC-D in FY 2010-11.
4. As a fall out of Commission's Order in Case No. 151 of 2011 dated 22 August 2012, the consumer mix and sales got severely impacted, with exponential growth in number of lower end consumers, and reverse migration of high end consumers, which resulted in reduction in sales.
5. The APTEL Judgment in Appeal No.294 of 2013 allowed the concerned Distribution Licensees to levy Cross Subsidy Surcharge and RAC on change-over consumers. This again changed the energy balance to the disadvantage of TPC-D.
6. All these events resulted in lower O&M expenses for TPC-D on account of the norms.
7. The Commission, in exercise of its powers under Regulations 100 and 102 of MYT Regulations, 2015, may apply O&M norms of the Supply Business of BEST to TPC-D as the consumer mix and sales are matching to some extent. This would facilitate adequate compensation for the actual expenditure for the Supply Business of TPC-D.
8. Regulation 81.4 of the CERC Tariff Regulations, 2014, stipulates WPI: CPI ratio as 60:40. The same concept is applied in the Commission's MYT Regulations, 2015 by way of Regulation 72.4. However, CERC applies this norm for Generation Companies Transmission Licensees as it does not deal with Distribution Licensees. Hence, it will not be a true reflection of O&M expenses for Distribution.
9. The Commission's MYT Order dated 21 October, 2016 in Case No. 47 of 2016 is based on the existing WPI and CPI, The escalation rate as per the norms specified in the Regulations works out to 1.11%, whereas the Compounded Annual Growth Rate (CAGR) of the actual O&M expenses for Wires Business in FY 2012-13 to FY 2014-15 was 21.26%, which is very high.
10. The weightage of CPI and WPI should be based on the actual break up of O&M expenses. TPC-D further stated that the CPI/WPI methodology should in addition take into account the increase in the consumer base which necessitates increase in number of offices, sales and distribution network, etc. Thus O&M Expenses norms based on

WPI/CPI indexation may be suitable for a Transmission Licensee but not for a Distribution Licensee like TPC-D.

11. In view of the above, TPC-D submitted that for the Supply Business CPI be given a weightage of 94% and WPI 6%. For Wires Business, CPI should be given a weightage of 70% and 30% for WPI.
12. In reply to the Commission's query regarding the impact of technological development, TPC-D stated that this proportion of WPI and CPI may change after 4-5 years from now. The escalation rate of 5.87% for supply business and 4.57% for Wires business should to be considered. It also suggested new base O&M expenses be formulated to take into account actual vs Normative O&M expenses.
13. TPC-D also referred to uncontrollable costs and their unpredictability, which are a part of A&G expenses and a component of O&M.
14. The Commission asked TPC-D whether MCGM reinstatement Charges should be excluded from O&M expenses, and what percentage should be subsumed in O&M expenses.
15. Dr. Ashok Pendse, Thane Belapur Industries Association (TBIA), a Consumer Representative, stated that year to year basis O&M expenses and Re-instatement Charges will keep on varying with revisions by MCGM every year. He also stressed that uncontrollable cost is only limited to TPC-D.
16. Advocate of TPC-D stated that the Commission under its power to remove difficulties and power to amend can modify the computation of base O&M expenses, similar to the philosophy adopted by the Commission in Order dated 22 August 2013 in Case No. 9 of 2013. In that Order, the Commission has exercised its power under Regulation 100 of the MYT Regulations 2011 to relax the O&M norms for RInfra-D provided under Regulation 78.4.1 and Regulation 92.7.1.
17. Advocate of TPC-D requested the Commission to use the base O&M expenses on the consumer base profile, or in the alternative use the base O&M of FY 2013-14 with escalation of 5.72% for Wire Business and norms of BEST for TPC-D for Supply Business.

**The Case is reserved for Order.**

**Sd/-  
(Deepak Lad)  
Member**

**Sd/-  
(Azeez M. Khan)  
Member**