

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Dated:26th Nov, 2014

Present:

HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM, CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER

APPEAL NO.259 OF 2013

In the Matter of:

Punjab State Transmission Corporation Limited
PSEB Head Office,
The Mall, Patiala-147 001
Punjab

..... Appellant

Versus

- 1. Punjab State Electricity Regulatory Commission**
SCO No.220-221,
Sector 34-A,
Chandigarh-160 022,
- 2. Punjab State Power Corporation Limited**
The Mall,
Patiala-147 001
Punjab

...Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K Ganesan
Ms. Swapna Seshadri

Counsel for the Respondent(s):Mr. Sakesh Kumar
Ms. Arushi Anthwal for R-1

J U D G M E N T

PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON

1. Punjab State Transmission Corporation Limited is the Appellant herein.
2. Challenging the Impugned Order dated 22.8.2013 disallowing the claim of the Appellant on the question of interest on Working Capital; the Appellant has filed this Appeal.
3. The short facts are as follows:
 - (i) The Appellant is a State Transmission Utility and State Load Despatch Centre for the State of Punjab.
 - (ii) Till 16.4.2010, the Punjab State Electricity Board was undertaking the functions of generation, transmission, distribution and retail supply of electricity. Thereafter it was unbundled to form two successor entities one is Punjab State Power Corporation Limited and the second is Punjab State Transmission Corporation Limited.

(iii) The Power Corporation is the Second Respondent which is a distribution licensee in the State of Punjab.

(iv) The State Commission notified the determination of Tariff Regulations, 2005 which was subsequently amended on various dates.

(v) For the Tariff Year 2013-14 the Appellant filed Petition for approval of Annual Revenue Requirement and Determination of Transmission Tariff before the State Commission.

(vi) The State Commission by the order dated 10.4.2013, determined the transmission charges applicable.

(vii) In the said order, the State Commission considered the interest on Working Capital at the rate of interest payable by the Appellant on Long Term Loan as against the Working Capital Loans.

(viii) Aggrieved by the above order dated 10.4.2013, the Appellant filed a Review Petition on various issues including the issue of interest on Working Capital.

(ix) The State Commission ultimately passed the Order on 22.8.2013 in the Review Petition allowing some of the claims of the Appellant but rejected the claims on the issue of interest on Working Capital.

(x) Aggrieved by this order dated 22.8.2013 with which the main order dated 10.4.2013 has got merged into, the Appellant has filed the present Appeal.

4. The learned Counsel for the Appellant has urged the following contentions challenging the Impugned Order:

(a) The State Commission has wrongly calculated the interest on Working Capital to be allowed to the Appellant by taking the weighted average of Long Term Loan taken by the Appellant. The State Commission ought to have considered the actual loans to be considered for calculating interest on Working Capital and not Long Term Loan such as Long Term Loan taken for the Capital Expenditure purpose.

(b) The purpose of providing interest on working capital is to service the cash flow necessary for the Appellant to conduct its business activities namely to take care of the time period between incurring of the

cash expenditure by the Appellant and the realisation of the revenue by the Appellant. The interest on working capital has no correlations whatsoever the Capital Expenditure incurred on the Capital Expenditure on Loan taken by the Appellant for Capital expenditure purpose.

(c) The interest on finances charges and the interest on working capital are two separate heads in the total annual revenue requirements to be allowed to the Appellant. The purpose of both of the above is different. While the interest charges are provided to service the Long Term Loans taken by the Appellant for Capital Expenditure purposes, the interest on working capital is provided to service the working capital requirements of the capital. Both cannot be mixed-up.

(d) The Tariff Regulations do not provide for calculating the interest on working capital based on the weighted average of the Long Term Loan. The interpretation of Regulations 30(5) has to be only in relation to the working capital, requirements of the Appellant and not the loans taken by the Appellant for Capital Expenditure.

(e) The provisions cannot be interpreted in the manner which contradicts different provisions. The interest on finance charges is provided taking into account the rate of interest. Therefore, the State Commission ought to have calculated the interest on working capital based on the weighted average of working capital loans taken by the Appellant excluding the Long Term Loans.

5. On the strength of these points, the learned Counsel for the Appellant prays for setting aside of the Impugned Order.
6. The learned Counsel for the Respondent Punjab Commission has submitted that the Regulations 30(5) of the Tariff Regulations, 2005 which shall govern the issue raised provides that the interest on working capital is equal to the actual rate of interest paid or payable on loan by the licensee on SBI Advance rate as on 01 April of the relevant year whichever is lower and therefore, the Regulations has been interpreted correctly and there is no reason to interfere in the Impugned Order.
7. In the light of the rival contentions urged by the learned Counsel for the parties, the following questions would arise for consideration:

- (a) **Whether the State Commission has correctly calculated the interest on Working Capital in terms of the Tariff Regulations of the State Commission?**
- (b) **Whether the State Commission is justified in calculating the interest on Working Capital by taking the weighted average of Long Term Loans of the Appellant and not on the basis of the Working Capital Loans?**
- (c) **Whether the State Commission has correctly interpreted and applied the provisions of the Tariff Regulations in the present case?**

- 8. Let us discuss all the issues together as they are inter related.
- 9. The present Appeal is against the Review Order wherein the State Commission has denied to review the above Order for the Financial Year 2013-14, so far as it relates to the interest on Working Capital. The main tariff order for the FY 2013-14 deals with the interest on Working Capital. The discussions on that issued by the State Commission in the main Tariff Order dated 10.4.2013 is as follows:

“3.9 Interest on Working Capital

In the ARR Petition for FY 2013-14, PSTCL has claimed interest on working capital at Rs.31.19 Crore on its Transmission Business on normative basis as per PSERC Tariff Regulations on a total working capital of Rs.211.46 Crore.

The Commission has considered the working capital as per PSERC Tariff Regulations. The interest on working capital works out to Rs.26.20 Crore for FY 2012-13 by applying an interest rate of 10.93% being the average rate of interest actually paid/payable by the utility on the loans availed by it, as detailed in Table 3.10.

Table 3.10 Interest on Working Capital for Transmission Business for FY 2012-13

| | | (Rs. Crore) | |
|--------|--|------------------------------|------------------------|
| Sr.No. | Particulars | FY 2012-13 | |
| | | Projected by PSTCL in the RE | Approved in the Review |
| 1. | 2 | 3 | 4 |
| 1. | Receivable equivalent to two months | 133.55 | 134.95 |
| 2. | Maintenance spares @ 15% of Operation and Maintenance Expenses | 50.09 | 67.35 |
| 3. | Operation and Maintenance Expenses for one month | 27.83 | 37.41 |
| 4. | Total Working Capital | 211.46 | 239.71 |
| 5. | Rate of Interest | 14.75% | 10.93% |
| 6. | Interest on Working Capital | 31.19 | 26.20 |

The Commission, thus, approves the Working Capital of Rs.239.71 Crore and interest thereon of Rs.26.20 Crore for the Transmission Business of PSTCL for FY 2012-13.

In the ARR Petition for FY 2013-14, PSTCL has claimed interest on working capital of Rs.1.21 Crore on the total working capital of Rs.8.23 Crore for its SLDC business. Applying the principle used in Transmission business, the Commission works out the interest of Rs.0.31 Crore on working capital by applying a rate of 10.93% on total working capital of Rs.2.87 Crore as given in Table 3.11.

(Rs. Crore)

| Sr.No. | Particulars | FY 2012-13 | |
|---------------|--|-------------------------------------|-------------------------------|
| | | Projected by PSTCL in the RE | Approved in the Review |
| 1. | 2 | 3 | 4 |
| 1. | Receivable equivalent to two months | 4.76 | 1.97 |
| 2. | Maintenance spares @ 15% of Operation and Maintenance Expenses | 2.23 | 0.58 |
| 3. | Operation and Maintenance Expenses for one month | 1.24 | 0.32 |
| 4. | Total Working Capital | 8.23 | 2.87 |
| 5. | Rate of Interest | 14.75% | 10.93% |
| 6. | Interest on Working Capital | 1.21 | 0.31 |

The Commission, thus, approves the Working Capital of Rs.2.87 Crore and interest thereon of Rs.0.31 Crore for SLDC business of PSTCL for FY 2012-13.”

- 10.** The perusal of the above discussions of the State Commission would indicate that the word “loans” in the Regulations do not distinguish the “loans for the Working Capital”, “Short Term Loans” and “Long Term Loans”. The

interest rate as per the spirit of the Regulations is the rate of interest payable on all loans.

11. In the light of the above, the State Commission applied the weighted average rate of interest of all categories of loans for working out the rate of interest of Working Capital loans of the licensee in tune with Regulations 30(5).
12. According to the Appellant, the State Commission has considered only Long Term Loans for determining the rate of Interest on Working Capital.
13. This contention is misplaced.
14. In fact, the State Commission had determined the weighted average rate of Interest against all loans based on the details of the loans which have been furnished by the Appellant, irrespective of the fact that it is Short Term Loan or Long Term Loan.
15. The Regulations 30(5) of Regulations, 2005 postulates that there is no working capital loan obtained by the licensee or has exceeded the working capital amount loan worked out on the normative figures, interest on working capital shall be payable on normative basis.

16. According to the learned Counsel for the State Commission, the Commission has no other alternative in the Regulations except to compute the working capital on normative basis as prescribed in Regulations 30(5) and apply the rate of interest on this capital as prescribed in Regulations 30 (5).
17. As indicated above, the Appellant furnished all the details of the loan and interest cost on the basis of those details of the loan, the State Commission applied the weighted average rate of interest of 10.93% on loans of licensees.
18. As the Appellant has not obtained the actual working capital loan, the Commission has no other alternative except to apply the rate of interest as prescribed in Regulations 30(5) of the Tariff Regulations, 2005 i.e. the rate of interest on Working Capital loan shall be equal to the actual rate of interest payable on the loans by the licensee or SBI advance rate whichever is lower.
19. As mentioned earlier, the word “loans” referred to in Regulations 30(5) does not distinguish the “Loans for Working Capital”, “Short Term Loans” and “Long Term Loans”.

20. In the light of the above discussions made in the Impugned Order, we feel that Regulation 30(5) is rightly applied by the State Commission in its letter and spirit.
21. Since no other meaning could be assigned to the word “loan” used in the Regulation to mean only “short term loan”, as per the interpretation of the Appellant.
22. **To Sum-Up**

The State Commission has allowed the interest on Working Capital loan as per its Regulations.

23. In the light of the above findings, there is nothing to indicate that there is any infirmity in the Impugned Order. Therefore, the Appeal is dismissed being devoid of merits.
24. However, there is no order to costs.
25. Pronounced in the Open Court on this **26th day of November, 2014.**

(Rakesh Nath)
Technical Member
Dated:26th Nov, 2014

(Justice M. Karpaga Vinayagam)
Chairperson

√REPORTABLE/~~NON-REPORTABLE~~