

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

*** ** **

**Present: Shri U. N. Behera, Chairperson
 Shri G. Mohapatra, Member
 Shri S. K. Ray Mohapatra, Member**

Case No. 125/2021

OPTCL	Petitioner
Vrs.		
Shri R. P. Mahapatra & others	Respondents

In the matter of: **Application under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 70(1) of the OERC(Conduct of Business) Regulations, 2004 along with Order 47 R-1 of CPC, 1908 seeking review of order dated 07.10.2021 of the Commission passed in Case No.01 of 2021in respect of truing up exercise for FY 2019-20.**

For Petitioner: Shri R. C. Mishra, CGM (Fin.), OPTCL and are present.

For Respondent: Shri R. P. Mahapatra.

Nobody is present on behalf of Shri Ananda Kumar Mohapatra, M/s. Swain & Sons Power Tech Pvt. Ltd. and M/s. Utkal Chamber of Commerce and Industry Ltd.

ORDER

Date of hearing: 11.01.2022

Date of order: 15.01.2022

1. This petition has been filed by the Odisha Power Transmission Corporation Limited (OPTCL) towards review of truing up of expenses for FY 2019-20 passed in the Commission's order No. 1/2021 dated 07.10.2021. The Petitioner in the present petition has sought review of the aforesaid order dated 07.10.2021 under section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulation, 2004.
2. The Petitioner OPTCL has stated that in the ARR & Transmission tariff application for the FY 2019-20, OPTCL had proposed Rs.35.28 Crore towards 40% of 7th pay arrear in line with Govt. of Odisha notification subsequently approved by the BoD of OPTCL. Accordingly, they had claimed the said amount.
3. The Petitioner has stated that vide office order no. AW-LW-II-2/2016/23919 dated 17.11.2018 40% of arrear amount arising out of pay revision of Executives and Non-

executives of OPTCL for the period from 01.01.2016 and 01.04.2015 respectively was released. The arrear impact of 7th Pay Revision on salary for the period from 01.01.2016 to 31.05.2018 and wage revision from 01.04.2015 to 31.05.2018 works out to Rs. 88.22 Crore. Accordingly, OPTCL has proposed Rs. 35.28 Crore towards 40% of arrear pay (40% of Rs. 88.22 Crore).

4. The Petitioner has stated that the Commission had approved total employee cost of Rs.419.77 Crore including Rs.35.28 Crore towards 40% of 7th pay arrear in the ARR & Transmission Tariff Order passed for FY 2019-20.
5. The Petitioner has stated that OPTCL in its truing up application had claimed Rs 35.28 Crore but the Commission had disallowed at Para 69 by following observation;

“The Commission is not inclined to allow Rs.35.28 Crore towards 40% of the arrear on account of 7th pay revision. As and when this is notified by Government of Odisha and paid by OPTCL this will be allowed by the Commission”

6. The Petitioner has stated that OPTCL has already released the 40% arrear during FY 2018-19 based on office order from State Govt. vide order no-FIN-PCC-PAY-003-2018/F dated 12.03.2018 and OPTCL vide order no – AW-LW-II-2/2016/23919 dated 17.11.2018. Therefore, the petitioner has submitted to consider the 7th pay arrear of Rs.35.28 Crore paid in FY 2018-19.
7. The Petitioner has stated that the Commission had allowed an amount of Rs 162.06 Crore towards depreciation in the Transmission Tariff Order for FY 2019-20, but as per audited accounts the depreciation on transmission assets is Rs. 257.39 Crore which includes Rs.57.12 Crore towards the depreciation on assets created by the beneficiary and Govt. on deposit work basis. The net depreciation against OPTCL own assets is Rs 200.27 Crore (Rs. 257.39 Crore – Rs. 57.12 Crore).
8. The Petitioner has stated that the Commission in Para 79 of the order dated 07.10.2021 observed as under ;

“The Commission in the Tariff order for FY 2019-20 allowed depreciation of Rs 162.06 Crore. In this truing up the depreciation amount is arrived at Rs 183.65 Crore and Rs 57.12 Crore is towards the depreciation made on account of assets created by the beneficiary and Govt. on deposit work basis. Therefore this amount of Rs 57.12 Crore is now deducted from the depreciation amount of Rs 183.65 Crore. Accordingly the Commission allows Rs 126.53 Crore (Rs 183.65 Crore- Rs 57.12 Crore) towards depreciation in the truing up order for FY 2019-20.”
9. The Petitioner has stated that the Commission has allowed depreciation on the opening balance of GFA and as per the audited accounts during the FY 2019-20 assets value of Rs.559.33 Crore has been added to the GFA and further stated that the petitioner should

claim the depreciation of the assets added during the year on prorated basis as per Transmission Tariff Regulation 8.36. Regulation 8.36 states that the depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rated basis.

10. The Petitioner therefore submitted to consider the additional depreciation of Rs 17.57 Crore on the assets added during FY 2019-20 amounting to Rs 559.33 Crore in this review petition.
11. The Respondent Sri R.P.Mahapatra has stated that the Commission has given detailed reasons in Para 69 of the order for not allowing an amount of Rs 35.28 crore towards 7th pay arrears and table 4 of Para 69 indicates that this amount of 35.28 crore is not of the audited accounts. Therefore the submission of OPTCL relating to 7th pay arrear may be rejected.
12. Regarding depreciation Sri Mahapatra stated that investment was made by OPTCL during the FY 2019-20. However the details of the works including the date of completion and the funding agency have not been submitted by OPTCL, It is therefore not possible to determine the depreciation for the works completed in FY 2019-20 in accordance with Transmission Tariff Regulation of OERC.

Commission's Order

13. The Commission heard the petitioner and objectors in detail. The component wise expenses for review in this order are discussed as below:

7th Pay Arrear

14. The Petitioner has stated that the 40% arrear has already been disbursed during the year FY 2018-19 and the Commission in the true up exercise for FY 2019-20 had disallowed the same. The Commission analyzed the original petition for true up of FY 2019-20 wherein it was mentioned that they have made provision for the payment of same and nowhere it was mentioned that the same has been released. Though the audited accounts reflected an amount of Rs.387.86 crore towards employee cost the Commission however basing on the submission of the petitioner that such payment has already been made, now considers the 7th pay arrear for the true up for FY 2019-20. Accordingly net employee cost of Rs.423.14 Crore (Rs.387.86 Crore + Rs.35.28 Crore) is considered as the Employee Cost against the earlier approved cost of Rs.387.86 Crore. The detailed calculation is indicated in the table at Para 18. The Commission had pronounced the order towards truing up of the expenses for FY 2018-19 relating to transmission tariff in Case

No. 17/2020 dated 18.05.2021. In the truing up petition there was no claim of OPTCL towards the arrear payments relating to 7th pay recommendation for the employees and consequently no such payment was allowed in that order. Therefore the Commission now allows additional Employee Cost of Rs. 35.23 crore towards 7th pay arrears for the truing up of FY 2019-20 to the OPTCL. Our earlier truing up order No. 1/2021 dated 07.10.2021 stands revised to such extent only.

15. The deficit under this head is considered at Rs 3.37 Crore (Rs 419.77-423.14 Crore) for the true up of FY 2019-20.

Depreciation

16. The Petitioner in this review petition has submitted to consider the additional depreciation of Rs.17.57 Crore pertaining to the assets added during FY 2019-20 amounting to Rs.559.33 Crore.
17. The Commission analysed the review proposal of the petitioner relating to additional depreciation on assets capitalized during the year FY 2019-20. The commission in the True up allows the depreciation considering the opening GFA as reflected in the available audited accounts. The depreciation on any addition of asset during the year is being allowed in the next year true up considering the opening balance of GFA. Therefore the Commission is not inclined to allow the additional depreciation on assets on pro rated basis FY 2019-20.
18. The revision of the true up for 2019-20 is summarized in the following table:

Sl. No.	Particulars	OERC approval in ARR OF 2019-20	Actual as per audited accounts	True up proposed by OPTCL	True up approved by the Commission	Surplus/ Deficit
A	Employee Cost	419.77	387.86	423.14	423.14	-3.37
B	R&M cost	115.22	125.53	125.53	125.53	-10.31
C	A&G cost (including SLDC & GCC)	27.98	44.23	44.23	27.98	0.00
D	Sub-total (A+B+C)	562.97	557.62	592.90	576.65	-13.68
E	Depreciation	162.06	257.39	200.27	126.53	35.53
F	Interest on long-term liability	35.14	59.33	59.33	33.33	1.81
G	Rebate	14.12	12.18	12.18	12.18	1.94
H	Incentive for system availability	5.00		5.00	5.00	0.00
I	Sub-total (D to H)	779.29	886.52	869.68	753.69	25.60
J	Income Tax	3.01	0.00	3.01	0.00	3.01
K	Return on Equity	106.18		123.95	123.95	-17.77

Sl. No.	Particulars	OERC approval in ARR OF 2019-20	Actual as per audited accounts	True up proposed by OPTCL	True up approved by the Commission	Surplus/ Deficit
L	GCC Expenses including SLDC Charges					
M	Grand Total (I to L)	888.48	886.52	996.64	877.64	10.84
N	Less: Inter-state wheeling & Misc. Revenue	124.77	179.86	104.83	104.83	-19.94
O	Less: Inter-surplus True up	57.00				-57.00
P	Net Transmission Cost	706.71	706.66	891.81	772.81	-66.10
Q	Revenue from Operation	706.71	621.73	621.73	621.73	-84.98
	Net Total	0.00	-84.93	-270.08	-151.08	-151.08

19. Accordingly the revised summary of the truing up over the years including this truing up for FY 2019-20 is given as follows:

FY	Cost of Trans. Charges approved in the ARR	Cost of Transmission Charges (audited) considered for true up	Revenue from LTOA charges approved in ARR	Revenue from LTOA Charges (audited)	Revenue from LTOA Charges (True up)	Difference in Transmission Charges (Col 2-3)	Difference in Revenue from LTOA charges (Col 6-4)	Total Difference Considered for True up	Cumulative True up
1	2	3	4	5	6	7	8	9	10
2006-07	333.27	323.01	333.27	355.34	355.34	10.26	22.07	32.33	32.33
2007-08	373.73	334.7	373.73	399.76	399.76	39.03	26.03	65.06	97.39
2008-09	376.57	308.07	376.57	678.93	413.15	68.5	36.58	105.08	202.47
2009-10	394.15	375.68	394.15	305.16	438.06	18.47	43.91	62.38	264.85
2010-11	480.93	431.9	480.93	405.19	538.08	49.03	57.15	106.18	371.03
2011-12	572.5	541.02	572.5	570.54	570.54	31.48	-1.96	29.52	400.55
2012-13	587.02	506.1	587.02	549.73	549.73	80.92	-37.29	43.63	444.18
2013-14	585.87	568.21	585.87	598.89	598.89	17.66	13.02	30.68	474.86
2014-15	624.5	639.73	624.5	634.34	634.34	-15.23	9.84	-5.39	469.47
2015-16	630.93	613.17	630.93	613.48	613.48	17.76	-17.45	0.31	469.78
2016-17	623.25	551.19	623.25	665.31	665.31	72.06	42.06	114.12	583.90
2017-18	639.4	644.99	639.4	625.15	625.15	-5.59	-14.25	-19.84	564.06
Adjusted amount as per ARR of FY 2015-16									427.81
Total Truing up as on 2017-18									136.25
2018-19	659.95	688.16	659.95	713.84	713.84	-28.21	53.89	25.68	161.93
2019-20	706.71	772.81	706.71	621.73	621.73	-66.10	-84.98	-151.08	10.85

20. The case is accordingly disposed of.

Sd/-
(S. K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Member

Sd/-
(U. N. Behera)
Chairperson