



Objection No. 5

STEEL CITY FURNACE ASSOCIATION

Old Central Bank Street, Loha Bazar, Mandi Gobindgarh-147301 (Pb.)

President

Bharat Bhushan Jindal

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General Secretary

Gopal Krishan Singhi

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Ref. No.....

Dated 23-02-2022

The Secretary,
Punjab State Electricity Regulatory Commission,
Plot No 3, Sector 18-A, Madhya Marg, Chandigarh-160018,
Mail ID : secretarypsercchd@gmail.com

IN THE MATTER OF:

AGGREGATE REVENUE REQUIREMENT (ARR) FOR THE YEAR 2022-23 FILED BY PUNJAB STATE POWER CORPORATION LIMITED AND PUNJAB STATE TRANSMISSION CORPORATION LTD (referred to as PSPCL and PSTCL).

AND

In the matter of Petition No 68 of 2021 filed by PSPCL and 67 of 2021 filed by PSTCL.

Respectively Showeth,

Punjab State Electricity Regulatory Commission (PSERC) has invited objections/ comments from the Industry and other consumers on the ARR submitted by PSPCL.

Steel City Furnace Association is an Association of LS PIU Induction Furnace consumers of PSPCL situated in and around Mandi Gobindgarh. We submit our comments on the Equity and Return on Equity claimed by the Petitioners in the Petitions as under:-

1. The then Punjab State Electricity Board (PSEB) was constituted under Electricity (Supply) Act 1948 as per which PSEB was to finance all its Capital works through Loans only and interest on loan and Loan installments were recovered through Tariff. Loans were given by GOP and to escape the interest and installments payable to GOP, PSEB got the loan(s) converted into equity of GOP in PSEB.
2. PSERC issued first tariff order for the year 2002-03 which stated in Para 6.10 that PSEB has been declared by GOP as a body corporate with a Capital of Rs. 5 crores with effect from 10th Mach 1987 under Section 12A of Electricity (Supply) Act 1948 and converted Rs. 1612 crores representing Government loans granted upto 3/90 into equity during 1991-92 and Rs.1189.11 crores representing 50% of loans granted during 1990-91 to 1994-95 in 1996-97. The total State Government Equity in PSEB is Rs.2806.11 Crores. Further no ROE was allowed in the tariff Order 2002-03 to 2005-06 by PSERC and only 3% Return on Net Fixed Assets were allowed as per Supply Act 1948.

3. As is clear, Initial equity of Rs. 2946.11 crore as on 2006-07 onwards on which ROE of Rs 412.46 Cr per year was allowed as per Para 4.15 of TO were loans of GOP camouflaged as Equity to get higher returns thro ROE.
4. On restructuring of PSEB into PSPCL and PSTCL on 16.4.2010, equity (in fact loans) of Rs 2946.11 Crore was also distributed as per provisional FRP/Transfer scheme as Rs 2617.61 Cr and 328.50 Cr and ROE was allowed separately as Rs 366.47 Cr and Rs 45.99 Cr for PSPCL and PSTCL respectively.
5. While there is no objection on such conversion for accounting purpose but for fixing tariff, apparently, there is no differentiation between loans given by Government of Punjab to Board/PSPCL and equity. In fact, all the assets of PSEB/PSPCL/PSTCL were/are created by borrowing/debt and a part of it shown as equity of Board. This evidently was done to help Discom to reduce its interest and repayment burden as ROE/dividend is not payable under Companies Act to GOP till PSEB/PSPCL is running in losses. Thus a methodology devised to keep the tariffs on lower side is now being used to increase income of PSPCL by unduly loading the consumers and to meet the financial losses due to inefficient working of PSPCL/PSTCL. Consequently, the consumers of the State are burdened with the higher tariff in the form of 15% - 16% ROE on such amount, which is in fact a government loan on which not more than 7-8% interest needs to be allowed.
6. Subsequently, Financial restructuring Plan and Transfer scheme was finalized and notified on 24.12.2012 by GOP. In this notification, an amount of of Rs.3132.35 crore standing in the books of PSEB on 15.4.2010 under the head "Consumer Contributions & Govt Grants" etc were also converted into equity of GOP and the same was admitted by PSERC as well. Thus the equity of PSPCL were enhanced from Rs 2617.61 Cr to 6081.43 Cr (Para 3.16 of TO 2013-14) and from 328.50 Cr to Rs 605.83 Cr (Para 3.10 of TO 2013-14) respectively. Thus the total equity was increased from 2946.11 Cr to 6687.26 cr.
7. The conversion of Consumer Contribution and Govt Grants/subsidies was appealed by consumers in APTEL and APTEL directed PSERC to reconsider the issue vide judgment Dated 17-12-2014 in Appeal No 168 and 142 of 2013 as under:-

"48. ----- We direct the State Commission to adjust the excess amount of ROE in the impugned order from the FY 2011-12 onwards in the ARR/ True up for the year to provide relief to the consumers."

50.3 The findings of this Tribunal in Appeal no. 46 of 2014 shall squarely apply to the present case. The State Commission shall re-determine the ROE as per our directions and the excess amount allowed to the distribution licensee with carrying cost shall be adjusted in the next ARR of the respondent no.2.

8. APTEL observed that the Govt can hold any amount as equity in PSPCL and PSTCL but ROE needs to be granted on actually subscribed and paid up equity only i.e. cash money infused need to be counted as equity for the purpose of ROE. PSPCL has filed an Appeal against the order in Supreme Court and stay has been granted. Final order of SC is still awaited. However, because of Stay granted by The Supreme Court, PSERC is granting ROE on Rs 6081.43 Cr to PSPCL and on 605.88 Cr to PSTCL. The CAG also objected to the conversion of non-interest bearing consumer contribution and Govt grants/subsidies etc into equity.
9. Subsequently, MOP, GOP and PSPCL entered into an agreement as per which PSPCL loans of Rs 15628.26 Cr were to be taken over by GOP by issue of SLR bonds by banks and loans were to be taken off the books of PSPCL. UDAY scheme ended on 31.3.2020 and PSPCL proposed in ARR 2020-21 to convert the loan amount of Rs 15628.26 Cr as GOP equity in PSPCL i.e. increasing GOP equity from 6081.43 cr to 21709.69 cr. PSPCL claimed ROE on Rs 15628.26 @ 15.90% i.e. Rs 2485 Cr in addition to ROE of Rs 6081.42 crore. Thus by simply maneuvering the entry of loan amount to equity, PSPCL was to load consumers by 3423 Cr. However, vide Tariff order dated 28th May 2021 PSERC rejected the proposal of PSPCL
10. Now in current ARR for FY 2022-23 dated 30th November 2021, PSPCL has come out with an entirely new argument that out of Rs.15628.26 crore, Rs.2246.77 crore were spent on capital expenditure and out of balance 13381.49 crore working capital loan, Rs.2346.19 crore were also diverted towards capital expenditure. Thus total Rs.4592 crore should be treated as equity and ROE should be now allowed on Rs. 10674 crore (Rs.6081.43 crore + Rs.4592 crore) inspite of the fact that PSERC and APTEL have amply made clear that only cash flow is to be treated as equity for the purpose of ROE and MYT regulations provide that equity should be actually infused for creation of useful assets. Therefore, there is no case for allowing ROE beyond Rs.6081.43 crore, which in principle is also under litigation, on which APTEL has decided adversely and matter is in Supreme Court. Since all the assets as admitted by PSERC are already accounted for and linked with corresponding source of debts, there is apparently no case for allowing ROE beyond the admitted amount of equity.
11. PSPCL vide its letter dated 12.4.2016 in ARR of 2016-17 stated that whole of the amount taken over by GOP under UDAY scheme comprises of debt. Further, the tripartite agreement for UDAY scheme provided that 75% of the UDAY loan will be converted into grant of GOP at the close of the scheme. Further, GOP was to compensate the loss of PSPCL in a graded manner during the period 2017-18 to 2020-21. However, so far neither any grant has been given by GOP in terms of UDAY agreement nor any loss compensation has been given/shown in ARR. Thus, PSPCL has failed to get any relief from GOP which would have given relief to the consumers but has acted proactively to make UDAY loan as GOP equity and claim ROE for the same to claim higher tariff.

12. It is also highlighted here that as per PSPCL's own admission, the assets created by PSPCL as well as erstwhile Electricity Board/Electricity branch of PWD through debt/loan, consumer contributions and Govt grants etc and not through any infusion of cash equity, there is need to investigate the source of funding of assets created by Discom/Board.
13. It is pertinent to note that PSPCL has itself admitted that gross fixed assets of GNDTP were created through loans and no infusion of equity was made at any stage. (Reference para 2.20, page 56-57, Tariff Order dated 28th May 2021).
14. The consumer contribution and Govt grants, which have been shown as part of equity (Rs.3135.32 crore) is also not equity in any sense and the same should be reduced from the equity and taken back to consumer contribution or to be written off for ARR purpose and no return on equity to be allowed on the same as no tangible benefits are given to consumers through equity infusion.
15. In the light of above facts, it becomes obvious that PSPCL has been trying to show higher and higher amount of funds raised through loans as equity to claim higher return on the same in the form of ROE @15%-16%, which is about 7-8% higher than normal interest loan. While the matter of fact is that all funds invested for capacity creation are borrowed funds on which only normal interest is to be paid. The methodology being adopted by PSPCL has been resulting into higher cost of supply year after year, which needs to be looked into.
16. REPORT OF THE FORUM OF REGULATORS ON "ANALYSIS OF FACTORS IMPACTING RETAIL TARIFF AND MEASURES TO ADDRESS THEM" (2020). Incidentally, ex Chairperson, PSERC happened to be chairperson of the Committee which prepared the above said report. The report suggests ways to reduce the retail power tariff in states. In para 2.1.3 of the report, which deals with fixed cost related factors, it is mentioned that the post-tax RoE of Discom and transco has been in the range of 14% - 16%. whereas the lending rate has been on the lower side for quite some time. While the RoE has an element of risk premium, the data analysis revealed the need for reconsidering the RoE keeping in view the prevailing prime lending rate and 10 - year G-Sec rate.
17. On ROE, Committee observed in para 4.1.1, that Return on equity allowed to Generation/ Transmission and distribution companies needs to be made more realistic and at par with interest rates and further that:-

RoE for generation and transmission should be linked to the 10 year G Sec rate (average rate for the previous 5 years) plus risk premium subject to a cap as may be decided by appropriate Commission.

For a discom, the RoE could be fixed based on the risk premium assessed by the State Commission. Income tax reimbursement should be limited to the RoE component only.


- ② For a discom, the RoE could be fixed based on the risk premium assessed by the State Commission. Income tax reimbursement should be limited to the RoE component only.
- ② Performance of Distribution licensees has a significant impact on retail tariff for the consumers. Therefore, there is a need to link recovery of RoE with the performance of the utilities, based on the indicators such as supply availability, network availability, AT&C loss reduction”.

Prayer

In the light of above observations, it is necessary that return on equity need to be reduced drastically from the present level of 15%-16% to average long term rate of interest on government borrowings (to about 7-8%), linking it with return on government security for 10 years or more.

Yours faithfully,

For Steel City Furnace Association



Auth. Sign

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