Rajasthan Electricity Regulatory Commission

Petition No. RERC-1760/2020

Petition filed for review of Commission's order dated 06.02.2020 passed in the matter of determination of ARR and tariff of JVVNL, AVVNL and JdVVNL for FY 2019-20.

Coram:

Dr. B. N. Sharma,	**Chairman**
Shri S. C. Dinkar,	**Member**
Shri Prithvi Raj,	**Member**

Petitioner : Sh. Mohan Lal Prajapat

Respondent : Jaipur Vidyut Vitran Nigam Ltd.

Date of hearings : 22.10.2020, 28.09.2021

Present : Sh. Bipin Gupta, Advocate for Respondent

Order Date: **04.10.2021**

ORDER

1. Sh. Mohan Lal Prajapat has filed this petition on 30.06.2020, under Section 58A of RERC (Transaction of business) Regulations, 2005 for review of Commission's order dated 06.02.2020 passed in petition no. 1541,1542,1543/19 in the matter of determination of ARR and tariff of JVVNL, AVVNL and JdVVNL for FY 2019-20.

2. Notices were issued to Respondent on 01.07.2020 to file reply to the petition. Respondent Discom filed their reply on 17.09.2020.

3. The matter was listed for hearing on 22.10.2020, none appeared for Petitioner. The matter was listed for final hearing on 28.09.2021. None appeared for Petitioner, Sh. Bipin Gupta, Advocate appeared for Respondent Discom. As the Petitioner is not appearing before the Commission since long we deem it appropriate to decide the matter on the basis of petition.

4. Petitioner in its petition has submitted as under:

4.1. Commission did not consider lot of issues raised as objections by review Petitioner in its order dated 06.02.2020 and has increased tariff around 14.5% and Fixed charges around 27.16%, that is putting extreme burden on Domestic Consumers. Thus, being aggrieved by non-consideration of the objections raised by review Petitioner the present review petition is filed.

4.2. Commission also not considerd the directions given in Tariff Policy, that tariff cannot be increased by $\pm$20% of cost of energy, therefore increase of tariff is against the Tariff Policy of Ministry of Power and Section 3, 61(g)(i), 86 2(i), 2(1) of Electricity Act, 2003. The Discom submitted that the total increase is 11.82% but ignored that the increase must be on cost of energy rather than current tariff, acceptance of the proposal of price hike is completely arbitrary, unjustified and unfair.

4.3. The increased tariff is being implemented only on domestic consumers while a huge ratio of electricity is being consumed by non-domestic consumers. The Industry tariff has not been increased in the name of slow down of economy and in Agriculture sector too, burden of increase has been protected by the State Govt.

4.4. Further losses due to uncontrolled theft/ pilferage, unauthorised drawal of power (without metering) revenue of which is lost due to which the loss value is being passed on to honest consumers by increasing tariff every time. Losses should not be imposed on honest consumers.

4.5. It is submitted that as per the tariff policy, the maximum allowed distribution loss is 15% whereas the total loss is much more than allowed energy loss. As per the reply given by the Discom highest losses of Bharatpur was 33.77%, Dholpur was 36.94% and Dausa was 27.55% which is much higher than the allowed losses due to incompetency of the management of Discom and the data is being presented of average losses of entire Discom. The Discom are hiding their incompetency of officers which is completely unjustified and unfair.

4.6. Commission itself has observed and showed worry in matter of distribution loss in para 2.9.1 to 2.9.3 in its order dated 06.02.2020, the Commission has taken serious note on the losses including distribution losses but on another hand the Commission allowed the Discom to increase the tariff arbitrarily, which is completely unjustified and unfair.

4.7. Further Commission has also observed a huge interest expenses in section 3 of its order dated 06.02.2020 and found a lots of discrepancies including various issues of fixed assets register at para 3.130-3.131 of order, but did not consider the fact that without removing discrepancies and taking actions on responsible officers, putting the burden of increased tariff on the shoulders of domestic consumers is completely arbitrary, unjustified and unfair.

4.8. It is, therefore, prayed to reconsider the Tariff for the domestic consumers and withdraw the increased Tariff.

5. Respondent Discom in their reply and during hearing submitted that:

5.1. Present petition is not maintainable as none of the grounds are covered under Order 47 Rule 1 of CPC on which the Petitioner is seeking review.

5.2. The Petitioner has claimed review on the ground that increase in tariff cannot be more than 20% of cost of energy, which is totally wrong rather the tariff policy provides that tariff should be within ± 20% of the average cost of supply.

5.3. Average cost of electricity supply to domestic consumers is Rs. 8.04/unit and the tariff for domestic consumers is less than Rs. 8.04/unit thus domestic consumers are in a subsidized category.

5.4. Another contention raised by the Petitioner is that huge distribution losses have been allowed by the Commission while determining the tariff which is totally wrong as Commission has restricted the losses to only 15% while determining the tariff.

5.5. The Commission has passed the order after considering each and every aspect and if petitioner is aggrieved he may file an appeal before the Hon'ble APTEL. The review petition is therefore not maintainable and liable to be dismissed.

Commission's view

6. Commission has considered the submissions, reply and oral arguments made on behalf of the Petitioner and Respondent.

7. Petitioner submitted that the Commission has not considered the issues raised by him in its order dated 06.02.2020 and increased tariff around 14.5%. Increase of tariff is also against the Tariff Policy of Ministry of Power and Section 3, 61(g)(i), 86 2(i), 2(1) of Electricity Act, 2003. Therefore, the tariff order should be reviewed and tariff hike should be withdrawan.

8. Per contra Respondent submitted that present petition is not maintainable as none of the grounds are covered under Order 47 Rule 1 of CPC on

which the Petitioner is seeking review, Commission has passed the order after considering each and every aspect.

9. Commission observes that the review of an order may be considered by the Commission under Section 94 of the Act and Order No. XL VII Rule 1 of Civil Procedure Code, on the following grounds:

a) Discovery of new and important matter or evidence which after exercise of due diligence was not in the knowledge of the applicant and could not be produced by him at the time when the decree or order was passed.

b) Some mistake or error apparent on the face of the record, and

c) For any other sufficient reason.

10. It is observed from the impugned order that Commission before passing the said order has taken into account all the facts and material placed before it and pleadings during the hearing of the petition. Looking to the objections made by the Petitioner, Commission is of the considered opinion that it is an attempt to re-argue the case. It is settled position that same points cannot be argued once again in the Review petition.

11. Petitioner has not pointed out any error apparent on the face of the record or any other new fact or any other sufficient ground for review in the Commission's Order dated 06.02.2020. Hence, the Commission does not find any ground in the petition which qualifies for review of the order. Commission, therefore, rejects the review petition.

12. The review petition, accordingly stands dismissed.

(Prithvi Raj)	(S. C. Dinkar)	(Dr. B.N. Sharma)
Member	Member	Chairman