

**BEFORE THE PUNJAB STATE ELECTRICITY REGULATORY COMMISSION, CHANDIGARH**  
**PETITION NO. \_\_\_\_\_ OF 2009**

**IN THE MATTER OF:**

Review Petition on Order dated 8<sup>th</sup> September 2009 of Hon'ble Commission in the matter of approval of Annual Revenue Requirement of Punjab State Electricity Board and Tariff for FY 2009-10 under the Provisions of Regulation 64 of Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005.

**AND**

**IN THE MATTER OF:**

Punjab State Electricity Board (hereinafter referred to as "PSEB" or "The Board", The Mall, Patiala -147001) - PETITIONER

**MOST RESPECTFULLY SHOWETH:**

**1. BACKGROUND**

- 1.1 The Punjab State Electricity Regulatory Commission (PSERC) or Commission, in exercise of its powers vested under the Electricity Act, 2003 (EA 2003) passed the Tariff Order FY 2009-10 while determining the Annual Revenue Requirement (ARR) and Tariff for supply of electricity by the Punjab State Electricity Board (PSEB) or Board to consumers of the State of Punjab for the FY 2009-10 on Sep 8, 2009.
- 1.2 The Hon'ble Commission has stated to have undertaken the following in the Tariff Order.
  - (a) True up for FY 2007-08 based on the audited annual statement of accounts;
  - (b) Review of FY 2008-09 based on revised estimates
  - (c) ARR Determination for FY 2009-10 based on norms set out in Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005 & its various amendments notified thereafter and data projections submitted by PSEB in its ARR petition for FY 2009-10.
- 1.3 The Hon'ble Commission has computed the cumulative revenue gap of Rs.1300.08 crores for the FY 2009-10 to be recovered from all categories of consumers including MMC, except common pool consumers, Outside State sales and PLEC. The tariff structure determined by Hon'ble Commission is effective from 1<sup>st</sup> April 2009 to 31<sup>st</sup> March 2010 with recovery of arrears in equal instalments in remaining months of year.

- 1.4 PSEB respectfully submits that it has reservations to certain aspects of the Tariff Order FY 2009-10 and the same is requested to be reviewed and modified by the Hon'ble Commission by taking into account the realities of the situation and to avoid further cascading effect on the worsening financial position of PSEB. PSEB is submitting this review petition on the Hon'ble Commission's order dated 8<sup>th</sup> September 2009 as per PSERC (Conduct of Business) Regulations, 2005, under Regulation 64 (Review of the decisions, directions and orders), reproduced below:

*"1. Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent on the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.*

*2. An application for review shall be filed in the same manner as a petition under Chapter II of these Regulations.*

*3. The application for review shall be accompanied by such fee as may be specified by Commission.*

*4. When it appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.*

*5. When the Commission is of the opinion that the application for review should be granted, it shall grant the same."*

- 1.5 **PSEB requests the Hon'ble Commission to admit the Review Petition since no appeal has been preferred so far, and the review petition is being filed within the specified deadline of 60 days after issue of the Order.**

- 1.6 The specific grounds on which the review is being sought have been identified against each aspect of the Order, on which review is being sought, in subsequent paragraphs.

## **2. POLICY & REGULATORY FRAMEWORK**

- 2.1 The Electricity Act 2003 (EA 2003) in section 61 has stated that Appropriate Commission shall clearly specify the terms and conditions for the determination of tariff, and in doing so shall be guided by certain factors, some of which are reproduced as below:

- (a) Section 61(d) - safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;

Furthermore, "Punjab State Electricity Regulatory Commission (Terms and conditions for determination of Tariff) Regulations, 2005" has stated in Section 4(1) that it shall be guided by principles contained in Section 61 of the Act.

- 2.2 The National Tariff Policy clearly identifies some of these issues and has clearly outlined some principles to be adhered to in balancing the consumer interests with financial and commercial viability of utilities, ensuring attracting capital investments into the sector, sharing of benefits between utilities and consumers, implementation of relaxed norms for utilities, etc, details of which are outlined below:
- (a) Section 1.4: Balancing the requirement of attracting adequate investments to the sector and that of ensuring reasonability of user charges for the consumers is the critical challenge for the regulatory process. Accelerated development of the power sector and its ability to attract necessary investments calls for, inter alia, consistent regulatory approach across the country.
  - (b) Section 8: Making the distribution segment of the industry efficient and solvent is the key to success of power sector reforms and provision of services of specified standards. Therefore, the Regulatory Commissions need to strike the right balance between the requirements of the commercial viability of distribution licensees and consumer interests. Loss making utilities need to be transformed into profitable ventures which can raise necessary resources from the capital markets to provide services of international standards to enable India to achieve its full growth potential.
- 2.3 The framework for determination of tariff has been clearly stated by the EA 2003 and supporting guidelines such as National Tariff Policy (NTP) and National Electricity Policy (NEP). Some of the features of NTP that can be applicable in the present context are:
- (a) Section 5(f): ....In cases where operations have been much below the norms for many previous years, the SERCs may fix relaxed norms suitably and draw a transition path over the time for achieving the norms notified by the Central Commission.
  - (b) Section 8.2.1(2): .....The SERC shall also institute a system of independent scrutiny of financial and technical data submitted by the licensees....
- 2.4 The Board submits that the Hon'ble Commission's Tariff Order FY 2009-10 has not taken into account some of the guiding principles while determining the tariff. The Hon'ble Commission has underestimated the revenue gap of the Board and approved the tariff on information that is in deviation to that provided by the Board.
- 2.5 The Board thereby requests the Hon'ble Commission to accept the rationale provided in the subsequent sections and allow prudent costs incurred. It will help the power sector of Punjab from coming out of vicious cycle of financial crisis.

### **3. RETURN ON EQUITY (ROE)**

#### **Tariff Order**

- 3.1 The Hon'ble Commission has approved Rs 412.46 Crs as return on equity @ 14.0% on a capital base of Rs.2946.11 Crs as on April 1, 2009.

#### **PSEB Submission**

- 3.2 PSEB submits that Hon'ble Commission has allowed 14% RoE on a capital base as per PSERC (Terms and Conditions of Tariff) Regulations, 2005, Regulation 25.1; which states –*“Return on Equity shall be computed on the paid up equity capital determined in accordance with Regulation 24 and shall be guided by the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 as amended by the CERC from time to time. The same principles will apply for distribution business also as far as possible.”*

- 3.3 PSEB submits that CERC Regulations 2004 were applicable till 31.3.2009 and now that CERC has issued new Tariff Regulations for the period 2009-2014, the same shall be made applicable for FY 2009-10's return on equity computations for PSEB. The relevant clauses of Return on Equity are extracted from Regulation 15 of CERC (Terms and Conditions of Tariff) Regulations, 2009 for reference as under:

*“(1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance .....Rate of return on equity =  $15.50 / (1 - 0.3399) = 23.481\%$ ”*

- 3.4 In this regard, it is pertinent to mention that Hon'ble Commission allows expenses like Interest on Working Capital & generation parameters like specific oil consumption, station heat rate, auxiliary consumption on normative basis as per CERC regulations and thus, Hon'ble Commission is requested to review the Return on Equity rate allowed in the tariff order and approve it as per prevailing CERC Tariff Regulations 2009 on normative basis at 23.481% on pre-tax basis for FY 2009-10.

### **4. THERMAL GENERATION**

#### **Tariff Order**

- 4.1 The Hon'ble Commission has assessed availability and generation for the year 2009-10 based on the average of actual availability and generation for the three years (2005-06 to 2007-08).
- 4.2 The Hon'ble Commission has identified 501 MU for Generation Incentive allowance in FY 2007-08.

### **PSEB Submission**

- 4.3 PSEB submits that the Hon'ble Commission has approved 19715 MU as Gross Thermal Generation for FY 2009-10 as per PSERC (Terms and Conditions of Tariff) Regulations, 2005, Regulation 20; which states –  
*“While determining the cost of generation of each thermal / gas / hydro electric generating stations located within the State, the Commission shall be guided, as per as feasible, by the principles and methodologies of CERC, as amended from time to time.”*
- 4.4 PSEB further submits that CERC has issued new Tariff Regulations for the period 2009-2014, wherein new norms of operation are proposed for thermal generating stations. These tariff regulations have proposed 85% plant availability factor for thermal generating stations. The relevant Regulation 26 of CERC (Terms and Conditions of Tariff) Regulations, 2009 reads as under:  
  
*“The norms of operation as given hereunder shall apply to thermal generating station:  
(i) Normative Annual Plant Availability Factor (NAPAF)  
(a) All thermal generating stations, except those covered under clauses (b), (c), (d), (e) &  
”*
- 4.5 In this regard, PSEB requests the Hon'ble Commission to review the Plant Availability Factor (PAF) allowed in the tariff order for FY 2009-10 and approve it as per prevailing CERC Tariff Regulations 2009 as 85% for GGSSTP Ropar & GHTP Lehra Mohabbat .
- 4.6 Thus, in this regard, Board submits that the incentive for thermal generation should be considered by the Hon'ble Commission as per CERC norms. As per CERC norms, generation incentive should be given to GGSSTP Ropar & GHTP Lehra Mohabbat above 85% PAF%.
- 4.7 Board further submits that in the case of GNDTP, Bhatinda; the Hon'ble Commission have computed the Plant Availability for FY 2009-10 given as 81.37% in Table 4.7. In this regard, it is further submitted that PSEB had given 333 days of planned outage/maintenance schedules as per Format 3 of its ARR Petition; based on which the Plant Availability comes out to be 77.19% as against 81.37% computed in the tariff order. Hence, Hon'ble Commission is requested to revisit this fact and review the tariff order accordingly.

- 4.8 PSEB also submits that the Hon'ble Commission had approved 3542 MU as gross generation target for GHTP Stage I & II for FY 2007-08 in the Suo Moto Order of FY 2007-08 wherein Stage I & Stage II had targets were 3232 MU & 310 MU respectively. Thus, PSEB thinks it is pertinent to mention here that Gross Generation finally achieved by GHTP Stage I was 3508.58 MU which was greater than its individual target by 276.58 MU whereas GHTP stage II couldn't achieve COD in FY 2007-08. However, the Hon'ble Commission has computed gross generation of GHTP units as 34 MU below target in the Tariff Order FY 2009-10 and has thus penalized PSEB for non achievement of COD of Stage II units for reasons that were beyond the control of the Board. Hence, in this regard, PSEB requests the Hon'ble Commission that in case of GHTP stage I, it has overachieved the generation target and hence, generation incentive should be allowed on 811.58 MU (501 MU + 34 MU + 276.58 MU) instead of 501 MU as computed in the Tariff Order FY 2009-10.

## **5. AUXILIARY CONSUMPTION OF GNDTP BHATINDA**

### **Tariff Order**

- 5.1 The Hon'ble Commission has fixed 10.22% as Auxiliary Consumption for GNDTP Unit 1,2 after adjusting 12% auxiliary consumption approved for Tanda Thermal Station by CERC wherein :
- a) 0.83% is being disallowed on account of the three staged pumping and bearing cooling water system provided at Tanda Thermal Station.
  - b) 0.95% is being disallowed on account of losses in generator transformer, unit auxiliary transformers, station transformers and excitation power.

### **PSEB Submission**

- 5.2 PSEB submits to the Hon'ble Commission that auxiliary consumption figures submitted by it were inclusive of losses in generator transformer, unit auxiliary transformers, station transformers, excitation power, BCW system and cooling water system. Infact, GNDTP is being following a similar procedure as that of Tanda Thermal Plant for 110 MW units for computing the total auxiliary consumption.
- 5.3 Hence, PSEB requests the Hon'ble Commission to allow equivalent norm of 12.00% (Tanda Power station ) for auxiliary consumption without any adjustments for GNDTP Unit 1,2 for FY 2008-09 & FY 2009-10 since any disallowance in this regard is bound to augment the worsening financial position of PSEB.

## **6. INTEREST ON WORKING CAPITAL**

### **Tariff Order**

- 6.1 The Hon'ble Commission as per the amended norms set out in Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005 & its Amendments notified on the July 27th 2009; has allowed the working capital on two months of fuel cost & one month for Maintenance spares as per CERC norms.

### **PSEB Submission**

- 6.2 The Board submits that in Tariff Order FY 2009-10; the Hon'ble Commission has taken impact of these amendments and has evaluated the interest on working capital. However, amendments in year-on-year variation in O&M expenses have been taken on the basis of Average WPI increase w.e.f FY 2007-08 as per the Amended tariff Regulations.
- 6.3 In this regard, Board requests the Hon'ble Commission to allow these costs in the true – up of FY 2007-08 & FY 2008-09 also as their disallowance for these years is bound to adversely impact the commercial viability of the Board.

## **7. INTEREST PAID ON LOANS TAKEN FOR SPECIAL PURPOSE VEHICLES (SPV)**

### **Tariff Order**

- 7.1 Hon'ble Commission in its tariff order has disallowed Interest paid on loans taken for SPV's for FY 2007-08.

### **PSEB Submission**

- 7.2 The Board submits that it has been taking loans on behalf of SPV's such as Talwandi Sabo Power Ltd. (TSPL), Nabha Power Ltd. (NPL), Gidderbaha Power Ltd. (GPL). Majority of these loans are being procured from institutions like PFC & REC. These loans are being further passed on to the SPV's. In addition, Board from its own resources/market borrowings provide loan to these SPV's.
- 7.3 In this regard, it is pertinent to mention that the interest income recovered from these SPV's have been credited to A/c Code 62.280 as Rs/- 5,72,24,573 for FY 2007-08. The loans being raised for these SPV's are being provided to them at specified interest rates determined with respect to market conditions.
- 7.4 This amount of Rs 5.72 Cr is included in Rs 321.33 Cr (included in Rs 580.79 Cr) as part of Non Tariff Income for FY 2007-08.
- 7.5 Hence, PSEB requests the Hon'ble Commission to reduce this interest income recovered from SPV's from the Non Tariff Income as Hon'ble Commission has disallowed the interest on loans taken for TSPL for FY 2007-08.

## **8. INTEREST ON LOANS TAKEN FOR NON REFUND OF INTEREST**

### **Tariff Order**

8.1 The Hon'ble Commission has disallowed loans taken due to non-refund of excess interest paid to Govt. and has addressed this matter as mutual to the Govt. and the Board.

### **PSEB Submission**

8.2 Board submits that it has been financing the liability raised due to this non refund by Govt. through short term loans and now this liability stands at Rs 782.72 Cr (Computation is attached as Annexure 1).

8.3 Hence, PSEB requests the Hon'ble Commission to allow interest on short term loans taken to bridge this liability separately from Working Capital as being carried out in the case of Adjustment of Rs 1362 Cr of Subsidy in the Tariff Order FY 2009-10 till the amount of Rs 782.72 Cr is being refunded from Govt. of Punjab.

## **9. T&D LOSS AND AP CONSUMPTION**

### **Tariff Order**

9.1 The Hon'ble Commission has disallowed AP consumption by 11.25% in FY 2007-08 and 10.20% in FY 2008-09 and has approved T&D losses as 22.00% for FY 2009-10 based on AP Consumption study undertaken by an agency ABPS.

### **PSEB Submission**

9.2 Board submits that in the Tariff Order of FY 2009-10; the Hon'ble Commission has evaluated Revenue Gap on the basis of 19.50% T&D loss for FY 2007-08 & FY 2008-09 & 22.00% for FY 2009-10. Further, the Hon'ble Commission has also computed effective T&D losses as 25.12 % and 24.07 % for FY 2007-08 & FY 2008-09 respectively on the basis of reduced AP Consumption.

9.3 In this regard, it is pertinent to mention here that though Hon'ble Commission has reduced AP Consumption for FY 2007-08 & FY 2008-09 it has not computed the energy requirements as per revised T&D losses for these years.

9.4 Hence, PSEB requests the Hon'ble Commission to allow revised T&D losses in the true – up of FY 2007-08 & review of FY 2008-09 as done for FY 2009-10 since their disallowance for these years is bound to adversely impact the commercial viability of the Board.

## **10. TREATMENT OF TERMINAL BENEFITS IN EMPLOYEE COSTS**

### **Tariff Order**

10.1 The Hon'ble Commission has considered separate treatment of employee's terminal benefits while approving the figures for employee cost for FY 2009-10. The Hon'ble Commission has also evaluated Rs 737.43 Cr as Terminal benefits for FY 2009-10. However, Hon'ble Commission has further stated that only when the roadmap for revising staff strength of the Board becomes available, the Hon'ble Commission would consider allowing extra employee costs to the Board on the basis of the amended regulations.

### **PSEB Submission**

10.2 PSEB submits that the Hon'ble Commission has approved Rs 1856.60 Cr as employee expenses for FY 2009-10. Though, for FY 2009-10, it has acknowledged Rs 2113.36 Cr as employee expenses. Thus, PSEB has been disallowed terminal benefits to the tune of Rs 256.76 Cr (Rs 2113.36 Cr - Rs 1856.60 Cr) as employee expenses for FY 2009-10.

10.3 In this regard, PSEB submits that these disallowances has been affecting the finances of PSEB very severely and hence, PSEB requests the Hon'ble Commission to allow these terminal benefit costs of the employees for FY 2009-10 in full without any deferment.

## **11. STATION HEAT RATE FOR GGSSTP ROPAR**

### **Tariff Order**

11.1 The Hon'ble Commission has taken the Station heat rate for GGSTP Ropar at 2500 Kcal/Kwh for the FY 2007-08, FY 2008-09 & FY 2009-10.

### **PSEB Submission**

11.2 The Board submits to the Hon'ble Commission that out of six units in the thermal station, two units of the plant are around 25 years old and with ageing of equipments, the performance is bound to deteriorate.

11.3 In this regard, Board submits that the Average ageing for the turbines of six units, as on 30 Sep 2009 was 14.89% (ranging from 11.96% for unit 6 to 18.08% for unit 1). On the basis of ageing, the derated value of the design turbine heat rate of 1985 Kcal/Kwh was computed as per BHEL's formula as given in Annexure 2. Considering the Designed Boiler efficiency as 87.16%, the station heat rate of GGSTP works out at 2622.68 Kcal/Kwh.

11.4 In this regard, it is further submitted that over the time, Boiler & other plant assembly's efficiencies are bound to decrease further from their designed values and thus 2700 Kcal/Kwh as SHR is a realistic assessment.

- 11.5 Based on the submissions made above, PSEB requests the Hon'ble Commission to consider the SHR for GGSSTP at 2700 Kcal/Kwh on average basis for FY 2007-08, FY 2008-09 & FY 2009-10. PSEB further requests the Hon'ble Commission to carry out an independent assessment by Consultants or an Outside agency for determination of Performance parameters for GGSTP Ropar.

## **12. ADDITIONAL UI SURCHARGE ON OVERDRAWL OF POWER**

### **Tariff Order**

- 12.1 Hon'ble Commission as per clause 4.8.5(e) of Tariff Order FY 2009-10 has indicated that in line with recommendations of Standing Committee on Energy, the additional UI surcharge for overdrawl when frequency is less than 49.20 Hz shall not be allowed.

### **PSEB Submission**

- 12.2 The Board submits that as per the decision taken in the FOR (Forum of Regulators), the same has to become applicable w.e.f 01.08.09 (press clipping enclosed as per Annexure 3).
- 12.3 In this regard, it is further submitted that there will always be some inadvertent flow of power while curtailing the overdrawl. Hence, PSEB requests Hon'ble Commission to revisit the decision in this regard.

## **13. TREATMENT OF NOTES TO ACCOUNTS IN TRUE-UP OF FY 2007-08**

### **Tariff Order**

- 13.1 Hon'ble Commission in its tariff order has made adjustments in Audited numbers of FY 2007-08 while incorporating the information given in Notes to Accounts in Annual Audited Statement of Accounts for FY 2007-08.

### **PSEB Submission**

- 13.2 The Board submits that Notes to Accounts contain Auditor's Report on certain issues or figures given in Annual Statement of Accounts. The various notes on accounts are normally addressed in the next year's Accounts and thus any adjustments carried out in the True-Up of FY 2007-08 might have been addressed again in Accounts for FY 2008-09.
- 13.3 Hence, PSEB requests the Hon'ble Commission to review these adjustments in the tariff order & revisit its decision in this regard.

## **14. PRAYER**

- 14.1 In view of the aforesaid mentioned facts, the petitioner most respectfully prays the Hon'ble Commission to :

- (a) Admit this Review Petition in accordance with Regulation 64 of PSERC (Conduct of Business) Regulations 2005 & its various amendments notified thereafter.
- (b) Review and modify the Tariff Order FY 2009-10 dated September 8, 2009 to the extent prayed by the petitioner in the present review petition.
- (c) Any errors/omissions may please be condoned, and opportunity be given to rectify the same and also submit additional issues at a later date.
- (d) Pass such further orders as this Hon'ble Commission may be pleased to pass.

BY THE APPLICANT THROUGH

November \_\_\_\_, 2009

Chief Engineer (ARR & TR)  
Punjab State Electricity Board,  
Patiala