

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Subject:- In the matter of petition filed by MPPTCL allowing billing/ recovery of Terminal Benefit Expenses for FY 2015-16 on “Pay as You Go” principle as enunciated in Para 3.63 of MYT Order 02.04.2013 read with Para 3.86 of Retail Supply Order dated 17.4.2015 on the basis of projected figures of FY2015-16, subject to true-up with a view to remove difficulties in timely payment of pension etc. to the retired personnel.

Petition No. 26/2015

ORDER

(Date of Order: 12th August' 2015)

M.P. Power Transmission Co. Ltd., Jabalpur

Petitioner

V/s

- 1. M.P. Poorv Kshetra Vidyut Vitaran Company Ltd., Jabalpur**
- 2. M.P. Madhya Kshetra Vidyut Vitaran Company Ltd., Bhopal**
- 3. M.P. Paschim Kshetra Vidyut Vitaran Company Ltd., Indore**
- 4. M.P. Audyogik Kendra Vikas Nigam, Indore**

Respondents

M.P. Power Transmission Company Ltd., Jabalpur has filed the subject petition for allowing billing / recovery of Terminal Benefit Expenses for FY 2015-16 on “Pay as You Go” principle as enunciated in Para 3.63 of MYT Order 02.04.2013 in respect of control period FY 2013-14 to FY 2015-16, read with Para 3.86 of Retail Supply Order dated 17.4.2015, on the basis of projected figures of FY 2015-16, subject to true-up with a view to remove difficulties in timely payment of pension etc. to the retired personnel.

2. The petitioner filed the subject petition under Regulation 44.1 of MPERC (Terms and Conditions for Determination of Transmission Tariff) Revision-II) Regulations, 2012 which provides as under:

“If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do or undertake or direct the licensees to do or undertake things, which in the opinion of the Commission is necessary or expedient for the purpose of removing the difficulties.”

3. MPPTCL has also filed the subject petition on the basis of the observations & directions of the Commission in its following orders:

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- (i) Aggregate Revenue Requirement and Retail Supply Tariff Order for FY 2015-16 dated 17th April' 2015.
- (ii) Determination of Multi Year Transmission Tariff for the control period FY 2013-14 to FY 2015-16 dated 02nd April' 2013.

4. In its petition, the petitioner broadly submitted the following:

- (i) *“The Commission, under MYT order dated 02.04.2013 (Petition No. 6/2013), allowed the following expenses for Terminal Benefits for the MYT period under consideration on ‘pay as you go principle’ in Para 3.63 of the order reproduced below;*

“In view of the above, the Commission has considered the terminal benefits and pension expenses for FY 2013-14 in this order on provisional basis on ‘pay as you go’ principle to the extent of ₹677 Crore as allowed in the Retail Supply Tariff Order for FY 2013-14 issued on 23rd March, 2013. Taking into cognizance, the clarifications filed by MPPTCL in its additional submission as mentioned in para 3.60, the Commission has considered this amount of ₹677 Crore in each year of the control period subject to true-up in each year on availability of the actual figures.

Accordingly, MPPTCL is paying the Terminal Benefit to the Pensioners of all the aforementioned Companies.

- (ii) *The Commission vide Retail Supply Tariff Order dtd. 17th April 2015 (Petition no. 30/2014), in Para 3.86, gave the following directions to the Petitioners;*

“With regard to the issue of expenses against Terminal Benefits for MPSEB/ successor entities employees who are to retire in FY 2015-16 as well as Pension payments to be paid to the Pensioners in FY 2015-16, the Petitioners have prayed to

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allow expenses to the extent of expected cash outgo during FY 2015-16 on this account. They have claimed ₹ 1156 Crore under the Intra-State Transmission charges. The provision of Terminal Benefits and Pension payments for all the successor Companies of erstwhile MPSEB are covered under Intra-State Transmission charges. Hence, no additional provisions are required on this account. The Commission has allowed the Terminal Benefits and Pension expenses for FY 2015-16 on provisional basis on “Pay as You Go” principle payable to MP Transco to the extent of ₹ 677 Crore. This is based on the MPPTCL Multiyear Tariff order for FY 2013-14 to FY 2015-16. The actual amount of Terminal Benefits shall be considered by the Commission in the True-up Petition to be filed by MPPTCL after exercising prudence check. Meanwhile, the Commission has directed that payment of Terminal Benefits should not be stopped.”

- (iii) *D.A. instalments of Pensioners are declared by the State Government, these in turn are linked to the D.A. instalments declared by the Central Government for its employees. The expenses on this account were low in years prior to control period but have gone up by 35% during the control period. Details of which are given below;*

S No	Rate of DA for Pensioners	DA Paid in month	DA rates effective for the period
	72% DA rate for Pensioners at Beginning of Control Period		
1	80%	July-13	January 2013 to June 2013
2	90%	October-13	July 2013 to December 2013
3	100%	May-14	January 2014 to June 2014
4	107%	January-15	October 2014 to December 2014
5	107%	March-15	July 2014 to September 2014

- (iv) *Regarding the True-up of 2013-14 (the first year of the present control period), based on the Annual Accounts of the MPPTCL, Commission has determined the true-up amount of*

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₹ 281.43 Crore for FY 2013-14. This amount shall be adjusted in the bills of long term open access customers of MPPTCL in FY 2016-17.

5. The petitioner has laid emphasis on the fact that the actual amount paid/payable by MPPTCL against Terminal Benefits is much more than that allowed by the Commission in its MYT order dated 02nd April' 2013 . To illustrate the aforesaid status, MPPTCL has submitted the following:

S No	Particular	Order dated	Amount in Crores		
			2013-14	2014-15	2015-16
1	Claimed by MPPTCL in Petition for Tariff regarding MYT period FY-14, FY-15, FY-16 for Terminal Benefits only (excluding Provisioning & Contribution of Trust Fund amount)	N.A.	760.86	886.87	1000.87
2	Order regarding Transmission Tariff for MYT period FY-14, FY-15, FY-16	02.04.13	677.00	677.00	677.00
3 a	True-up for 2013-14	28.04.15	939.92	-	-
3 b	Terminal Benefit expenses in 2014-15 (Provisional)	-	-	1037.45	-
3 c	Estt. Terminal Benefits expenses in 2015-16 (As per the projections for 2015-16 which is enclosed as Annexure-II of the petition)	-	-	-	1185.27*
4	Difference between Paid and allowed (3 - 2)	-	262.92	360.45	508.27
5	% Difference (4/2)	-	39%	53%	75%

** However As per Table 19 of Retail Supply Tariff Order FY 2015-16 the same is indicated as ₹ 1155.98 Crores by the petitioners, as indicated in Annexure-III of the petition.*

With the above contention, MPPTCL further submitted the following:

a) Around 93% of the True-up amount for 2013-14 consists of Terminal Benefits.

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- b) *This amount of ₹262.92 Crores under Terminal Benefits, which the applicant has already paid in 2013-14, is to be recovered in 2016-17 i.e. after 3 years.*
- c) *As per the prevailing practice the True-ups for future years are expected to be also recovered after 3 years.*
- d) *It may kindly be perused that during the recent years meeting a requirement of such a huge amount, to be recouped after a lapse of 3 year period, is proving difficult to sustain for the Nodal Company i.e. MPPTCL. This is despite the ruling of the Honorable Commission that Terminal Benefits shall be paid on **Pay As You Go Principle** and that the payment regarding pensions etc. should not be stopped.*
- e) *A comparative table of ARR of 2015-16 before and after impact of change of Terminal Benefits along with the apportionment on the ratio of Transmission Capacity allocated is enclosed as **Annexure-IV.**”*

6. Based on the above, the petitioner has prayed the following:

“Approve and allow the petitioner to bill its Long Term Open Access Consumers to bill and recover the actual Amount paid under the head of Terminal Benefits on monthly basis in the ratio of the Transmission capacity allocated.”

7. Motion hearing in the matter was held on i.e., **23rd June’ 2015**. Vide Daily Order dated 24th June’ 2015, the petition was admitted and the petitioner was directed to serve copies of the petition on all the respondents in the matter and report its compliance to the Commission. The respondents were also directed to file their response on the petition by 15th July, 2015. The case was fixed for hearing on **21st July’ 2015**.

8. Vide Commission’s letter dated **25th June’ 2015**, the information gaps and the requirement of additional information in the matter were communicated to MPPTCL seeking its reply by 10th July’ 2015. Vide letter dated **29th June’ 2015**, MPPTCL confirmed that the copies

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of the petition has been served to all the respondents in the matter. The Commission has received no comments from any Respondents in the matter.

9. Vide No. 04-01/CRA/F-98/5387 dated 10th July’ 2015, MPPTCL had sought time extension of ten days for submitting the desired information mentioning that some more time is required in collecting the information from accounting units and its compilation.

10. Considering the request of MPPTCL, the time extension was granted up to **20th July’ 2015** for submission of its response.

11. Vide No. 04-01/CRA F-98/ 5582 dated **16th July’ 2015**, MPPTCL submitted its reply. Issue wise response as filed by MPPTCL is as below:

- (i) **Issue:** The total amount in the last column (proposed ARR) in Annexure IV filed with the petition is not matching with the sum of all figures in that column. It is also observed that the figures against terminal benefits in both columns are same. The petitioner is required to review Annexure IV and rectify the discrepancy if any, along with the reasons for the same.

Response: *“The Terminal Benefits assessed for FY 2015-16 is ₹1185.27 Crores. The same is based on the projections shown in Annexure-II and also indicated in the table of Para-6 of the Petition. It is regretfully submitted that due to typographical error, the same is mistakenly shown as ₹ 677.00 Crores in the proposed column. The corrected Annexure-IV is submitted alongwith this letter for kind consideration of the Commission.”*

- (ii) **Issue:** The prayer in para 7.0 (c) of the petition is lacking clarity as whether the petitioner is requesting for any amendment in the Regulations notified by the Commission or to bill & recover the estimated amount of ₹ 1185.27 Crores (against ₹ 677 Crores approved by the Commission for FY 2015-16) in accordance with Regulations 39

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& 40 of MPERC (Terms and Conditions for determination of transmission tariff) (Revision II) Regulations, 2012. Therefore, the prayer in para 7.0(c) needs to be explicitly clear by the petitioner.

Response: *“Vide Para 7.0(c) of the Petition, the Petitioner MPPTCL, is only requesting for billing & recovering the amount paid under the head of Terminal Benefits on monthly basis in the ratio of the allocated Transmission capacity to the Long Term Open Access customers for FY 2015-16 under stipulations of Powers to **remove difficulties.**”*

As desired for explicitly, the Para 7.0(c) is rephrased below for kind consideration;

7.0(c) Allow the petitioner to bill its Long Term Open Access Consumers to bill and recover the Amount paid under the head of Terminal Benefits for 2015-16 on monthly basis in the ratio of the Transmission capacity allocated for the year 2015-16.”

(iii) **Issue a:** Criteria and assumptions for estimation of terminal benefit liabilities for FY 2015-16.

Response: *“The criteria and assumption for estimation of Terminal Benefit liabilities for FY 2015-16, that is ₹ 1185.27 Crores was based on the past trend of average Dearness Relief (prior to the order dtd. 15.6.2015).*

a).2. *The cash outflow under the head of Pension and number of Pensioners in the middle of the previous year, that is, ₹ 70.53 Crores & 36002 Nos. respectively in November 2014 has been taken to calculate the per head Pension. The same procedure is adopted for Gratuity payments also.*

The full working is submitted as Annexure-I along with this letter.

a).3. *The conservative average Dearness Relief of 112% has been adopted, this D.R. has been loaded on the above.”*

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Issue b: Computation of liabilities for FY 2015-16.

Response: “The liabilities for FY 2015-16 are computed as per the submission made above, a summary of which is reproduced below;

S. No.	Particulars	Amount in ₹Crores
1	Pension	953.50
2	Gratuity	191.79
3	Outstanding Commutation	39.98
		₹1185.27

Issue c: Liabilities against pensioners retired up to 31.05.2005 and thereafter

Response: “Liabilities against Pensioners retired upto 31.5.2005 & thereafter are given in Annexure-I of this submission, the summary of which is as given below;

a.	Total Pension for retirees before 31.5.2005 (S. No. 5 of Table 1 of Annexure-1)	₹407.46 Crores
b.	Total Pension for retirees after 31.5.2005 (S. No. 6 of Table 1 of Annexure-1)	₹546.04 Crores
TOTAL -		₹953.50 Crores

Issue d: Total terminal benefit liabilities claimed for FY 2015-16.

Response: As desired, the total Terminal Benefit Liability claimed for FY 2015-16 has been submitted in the workings given in Annexure-I, the summary of which is presented below for kind consideration of the Commission;

S. No.	Particulars	Reference	Amount in ₹Crores
a.	Pension (including Family Pension)	Annexure-I Table-I Column-7	953.50
b.	Gratuity	Annexure-I Table-I Column-1	191.79
c.	Commutation	Annexure-I Table-I Column-8	39.98
TOTAL -			₹1185.27 Crores

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(iv) **Issue:** The petitioner is also required to file detailed explanation regarding its claim of ₹1185.27 Crores on the above mentioned heads with all relevant supporting documents including the Company wise & Category wise strength of pensioners and the amount payable to them under various heads for Terminal Benefits.

Response: “As desired by the Hon’ble Commission, the details regarding the claim of ₹1185.27 Crores are submitted in the Annexure-I & II.

The Company-wise strength of Pensioners are as follows;

S. No.	Name of Company	No. of Pensioners on or before 31/05/2005	No. of Pensioners after 31/05/2005
1	MPPTCL	3	2009
2	MPPMCL	1344	546
3	MPPGCL	1379	2360
4	MPPoKVVCL	4200	5828
5	MPPaKVVCL	5445	5325
6	MPMKVVCL	3981	4639
7	Total	16352	20707

The category-wise amount payable to them under various heads of Terminal Benefits are submitted below, the month-wise break-up for which, is submitted in Annexure-II.

S. No.	Period of assessment	Pension	Gratuity	Commutation	Total
1	2015-16	₹953.50 Crores	₹191.79 Crores	₹39.98 Crores	₹1185.27 Crores

(v) **Issue:** The reason for assuming an overall increase of 10 % over and above the actual cash flow towards Terminal Benefits of FY2014-15 in Annexure III of the petition be also submitted.

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Response: “The reason for assuming an overall increase of 10% over & above the Cash Flow towards Terminal Benefits of 2014-15, is that during the 2013-14, the actual outflow was ₹939.93 Crores and that during 2014-15 it was ₹1037.45 Crores. Thus, it may please be perused that there is an increase of 10.43% in 2014-15 from 2013-14. During 2014-15 (sans Commutation of previous year) also the increase depicted vis-à-vis the previous year is 10.4%.

The details of the previous years are submitted as Annexure-III.

Here it is also to be submitted that ₹ 1185.27 Crores has been claimed conservatively before the orders for D.R. relief was raised to 113% vide order dtd. 15.6.2015, a copy of which is enclosed as Annexure-IV.”

Commission’s Analysis:

12. In its reply to the observations on the petition communicated to it by the Commission, the petitioner has submitted the following:

- (i) The criteria and assumption for estimation of terminal benefit liabilities for FY 2015-16 is based on the past trend of average Dearness Relief (prior to the order dated 15.06.2015).
- (ii) The cash outflow under the head of pension and the number of pensioners in the middle of previous order has been taken to calculate per head pension. The same procedure is adopted for gratuity payments also. On the basis of the aforesaid, the petitioner has submitted full working to arrive at the estimated figure of ₹1185.27 Crs. for FY 2015-16.
- (iii) The conservative average dearness relief of 112% has been adopted and loaded on the above.
- (iv) Accordingly, the petitioner has claimed the following amount to bill and recover towards Terminal Benefits in FY 2015-16.

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S. No.	Particulars	Amount in ₹ Crores
1	Pension	953.50
2	Gratuity	191.79
3	Outstanding Commutation	39.98
		₹ 1185.27

13. On combined reading of Para 3.63 of Multi Year Transmission Tariff order dated 2nd April' 2013 and Para 3.86 of Retail Supply Tariff order for FY 2015-16 dated 17th April' 2015 issued by the Commission, it is observed that the Commission had provisionally allowed the amount towards terminal benefits and pension expenses on “Pay As You Go” principle. Further, the petitioners were directed that the payment of terminal benefits should not be stopped.

14. On analysis of the details of true up amount determined by the Commission for MPPTCL during last three years, the following status is observed:

(₹in Cr.)							
S No	True up for the year	Date of Order	Amount allowed in MYT Orders towards Terminal Benefits	Amount allowed in True up Orders towards Terminal Benefits	Difference in the amount towards Terminal Benefits	Total True up amount allowed in true up Order	% of amount towards terminal benefit out of total True-up amount determined
1	FY 2011-12	11.11.2013	361.90	651.93	290.03	336.70	86%
2	FY 2012-13	21.08.2014	621.29	773.44	152.15	174.79	87%
3	FY 2013-14	28 04 2015	677	939.92	262.92	281.43	93%

15. It is observed from the above truing up exercise for the last three years (i.e. FY 2011-12 to FY 2013-14) that the true-up amount determined by the Commission in these years is having a major component of terminal benefits in the range of 86% to 93% of the total true-up amount. The petitioner i.e. MPPTCL, has estimated a difference of about 508.27 Crores between the provisional amount of terminal benefits already considered by the Commission for FY 2015-16 and the actual amount of terminal benefit expenses expected to be incurred in FY 2015-16.

Subject:- In the matter of petition filed by MPPTCL allowing billing/ recovery of Terminal Benefit Expenses for FY 2015-16 on “Pay as You Go” principle as enunciated in Para 3.63 of MYT Order 02.04.2013 read with Para 3.86 of Retail Supply Order dated 17.4.2015 on the basis of projected figures of FY2015-16, subject to true-up with a view to remove difficulties in timely payment of pension etc. to the retired personnel.

16. In view of the above facts and figures and considering the difficulties put forth by MPPTCL in discharging its function for payment of terminal benefit and pension expenses to all the six successor companies of erstwhile MPSEB, the Commission has considered to allow an annual amount of ₹1185.27 Crores for billing/recovery of terminal benefit expenses in FY 2015-16 as sought in the subject petition.

17. Till the date of issue of this order, MPPTCL has recovered the monthly amount (on prorata basis) out of the total annual amount of ₹677 Crores towards Terminal Benefits in the Annual Revenue Requirement determined by the Commission in MYT order dated 02.04.2013. Therefore, MPPTCL is now allowed to bill and recover the difference amount of ₹508.27 Crores (₹ 1185.27 - ₹ 677) over and above the Annual Revenue Requirement determined by the Commission for FY 2015-16 without any interest in equal monthly instalments during FY 2015-16. The aforesaid amount shall be recovered in terms of Regulations 39 & 40 of MPERC (Terms and Conditions for determination of Transmission Tariff) Regulations, 2012.

18. Accordingly, the recoverable amount shall be billed alongwith the regular bills to be issued by MPPTCL in terms of the Multi Year Transmission Tariff order dated 02.04.2013 issued by the Commission. The petitioner shall ensure that the amount towards Terminal Benefit allowed in this order be considered appropriately in its true-up petition to be filed with the Commission.

With the above directions, this petition is disposed of.

(Alok Gupta)
Member

(A. B. Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman

Date: 12th August' 2015

Place: Bhopal