

**BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION AT GANDHINAGAR**

PETITION NO. 1554 OF 2015

In the matter of:

Consequential Order in Petition No. 1554 of 2015 (dtd. 31.03.2016) in light of the judgment of the Hon'ble Appellate Tribunal for Electricity dated 09.05.2019 in Appeal No. 256 of 2016.

CORAM:

**Shri Anand Kumar, Chairman
Shri K.M.Shringarpure, Member
Shri P.J.Thakkar, Member**

Date: 19/06/2019

ORDER

1. This Order is being issued in accordance with the directives issued by the Hon'ble Appellate Tribunal for Electricity in its judgment dated 09.05.2019 in Appeal No. 256 of 2016.

2. The background of the case is as follows:
 - i. Torrent Power Limited (Appellant before the Hon'ble APTEL) filed a Petition No. 1554 of 2015 for True-up of FY 2014-15, Approval of Provisional ARR for FY 2016-17 and Determination of Tariff for FY 2016-17 for its distribution business of Dahej supply area. Subsequently, the Commission had passed the Tariff Order on 31.03.2016.
 - ii. Aggrieved by the said Order, the Petitioner filed Appeal No. 256 of 2016 before the Hon'ble Appellate Tribunal for Electricity challenging the Commission's Order dated 31.03.2016 to the extent it relates to erroneous treatment of O & M Expenses as under:
 - a) Variation in O & M Expenses considered as 'Controllable'.
 - b) Reduction / deduction of Rs. 2.48 Crore from O & M Expenses contrary to applicable Statutory Regulations.

c) Network Augmentation Charges paid to GETCO considered as controllable.

3. The Hon'ble Tribunal in its judgment dated 09.05.2019 has allowed the Appeal and set aside the Commission's Order dated 31.03.2016 in Petition No. 1554 of 2015 to the extent challenged in the Appeal. The Hon'ble Tribunal decided as under:

“9. Summary of our Findings:-

Based on above, we decide and conclude as under

9.1 *The variation in O&M expense is normally to be treated as controllable. However, in exception cases as in hand, the amount of Network Augmentation charges incurred by the Appellant as required by State Transmission Utility (STU) for connectivity needs to be treated as uncontrollable.*

9.2 *The deduction of Rs. 2.48 crores from O & M Expenses is contrary to applicable Statutory Regulations of the State Commission.*

9.3 *The Commission should take consistent stand in all matters on the same plea whether related to O&M expenses or the variation in technical and commercial losses.*

10 *Accordingly, the appeal deserves to be allowed.*

ORDER

Having regard to the facts and circumstances of the case as stated supra, we are of the considered view that the issues raised in the present appeal being Appeal No. 256 of 2016 have merits. Hence, the Appeal is allowed. The impugned order dated 31.03.2016 passed by Gujarat Electricity Regulatory Commission in Case No. 1554 of 2015 is hereby set aside to the extent challenged in the Appeal.

The State Commission is directed to pass the consequential orders in accordance with law and our findings stated in Para 9.1 to 9.3 above, as expeditiously as possible within a period of four months from the date of receipt of a copy of this judgment and order.

.....”

4. In consideration of the observations made by the Hon'ble Tribunal, following consequential order is passed:

We note that this Commission has been directed by the Hon'ble Tribunal to consider the variation in the O&M Expenses due to expenditure incurred by the Petitioner for Network Augmentation Charges as required by STU for connectivity as uncontrollable. The Tribunal has further observed that deduction of Rs. 2.48 Crore from O&M Expenses is contrary to applicable statutory Regulations of the State Commission. The Commission has also been advised to take consistent stand in the variations with respect to O&M Expenses and technical and commercial losses. In the light of above observations, the revised calculation of O&M Expenses and the revised Gains / (Losses) now approved in the truing up of FY 2014-15 is shown in the Table below:

**O&M Expenses and Gains / (Losses) approved in Truing up for FY 2014-15
(Rs. Crore)**

Particulars	Approved in the MTR Order	Approved in True-up Order dated 31.03.2016	Now Approved	Deviation + / (-)	Gains / (Losses) due to Controllable factor	Gains / (Losses) due to Uncontrollable factor
O&M Expenses	2.67	9.64	12.12	(9.45)	0.00	(9.45)

5. Due to the above revisions and corrections, the revised ARR and revised calculation of Gains / (Losses) due to controllable and uncontrollable factors for FY 2014-15 are as given in the Table below:

Revised Trued up ARR approved for FY 2014-15 (Rs. Crore)

Particulars	Approved in the MTR Order	Actual Claimed	Approved in Truing Up	Deviation + / (-)	Gains / (Losses) due to Controllable factor	Gains / (Losses) due to Uncontrollable factor
ARR approved in the Order dtd. 31.03.2016	69.99	88.19	85.71	(15.72)	(6.97)	(8.75)
Revised ARR now approved	69.99	88.19	88.19	(18.20)	0.00	(18.20)

6. Due to revision in the trued up ARR as well as calculation of Gains / (Losses) due to controllable and uncontrollable factors, there is revision in the trued up Gap / (Surplus) for FY 2014-15 as shown in the Table below:

Revised Revenue Gap / (Surplus) for FY 2014-15 (Rs. Crore)

Particulars	Legend	Approved in True-up Order dated 31.03.2016	Now Approved
ARR approved in the MTR Order	a	69.99	69.99
Gains / (Losses) on account of Controllable Factor	b	(6.97)	0.00
Gains / (Losses) on account of Uncontrollable Factor	c	(8.75)	(18.20)
Pass through as Tariff	$d = -(1/3 \text{rd of } b + c)$	(11.08)	(18.20)
Trued up ARR	$e = a + d$	81.07	88.19
Revenue from Sale of Energy		93.94	93.94
Less: Revenue towards recovery of Earlier Years' approved Gap / (Surplus)		2.71	2.71
Balance Revenue		91.23	91.23
Net Revenue Gap / (Surplus)		(10.16)	(3.04)
Differential Impact due to revision in Surplus (10.16-3.04)			(7.12)

As shown in the above Table, the Revenue Surplus of Rs. 10.16 Crore approved in the Order dated 31.03.2016 gets reduced to Rs. 3.04 Crore on account of implementation of the directives of the Hon'ble APTEL. Accordingly, there shall be net reduction of Rs. 7.12 Crore in the revenue surplus for FY 2014-15 and decide to consider the same in the next Tariff Order.

7. The directions contained in the judgment of the Hon'ble Tribunal dated 09.05.2019 in Appeal No. 256 of 2016 stand fully implemented by this Order.

8. All other terms contained in the Order dated 31.03.2016 in Petition No. 1554 of 2015 shall remain unaltered.

Sd/-

[P. J. THAKKAR]
Member

Sd/-

[K. M. SHRINGARPURE]
Member

Sd/-

[ANAND KUMAR]
Chairman

Place: Gandhinagar

Date: 19/06/2019