

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

1. **Shri Ashok Basu, Chairperson**
2. **Shri Bhanu Bhushan, Member**

**I.A.No. 6/2007  
in  
Petition No. 48/2000**

**In the matter of**

Approval of transmission tariff for 400 kV Malda-Bongaigaon transmission line with associated bays (under Kathalguri Project) between Eastern Region and North-Eastern Region for the period from 1.4.2000 to 31.3.2001.

**And in the matter of**

Power Grid Corporation of India Limited, Gurgaon **.....Petitioner**

Vs

1. Assam State Electricity Board, Guwahati
2. Meghalaya State Electricity Board, Shillong
3. Department of Power, Government of Arunachal Pradesh, Itanagar
4. Power & Electricity Deptt., Govt of Mizoram, Aizawl
5. Electricity Department, Govt of Manipur, Imphal
6. Deptt. of Power, Govt. of Nagaland, Kohima
7. Deptt of Power, Govt. of Tripura, Agartala
8. Bihar State Electricity Board, Patna
9. West Bengal State Electricity Board, Kolkata
10. Grid Corporation of Orissa Ltd, Bhubaneswar
11. Damodar Valley Corporation, Kolkata
12. Power Deptt., Govt. of Sikkim, Gangtok
13. Jharkand State Electricity Board, Ranchi **..... Respondents**

**The following were present:**

1. Shri U.K. Tyagi, PGCIL
2. Shri B.C.Pant, PGCIL
3. Shri M.M.Mondal, PGCIL
4. Shri A.K.Nagpal, PGCIL
5. Shri Umesh Chandra, PGCIL
6. Shri Harmeet Singh, PGCIL

**ORDER**  
**(DATE OF HEARING: 27.2.2007)**

This application has been made for approval of transmission tariff of Rs.7610.45 lakh for 400 kV D/C Malda-Bongaigaon transmission line (the transmission line) forming part of Kathalguri Transmission System (the transmission system) from 1.4.2000 to 31.3.2001.

2. The transmission line is an inter-regional asset between Eastern Region and North Eastern Region. The transmission line was declared under commercial operation on 1.4.2000. The petition was filed on 4.7.2000 for approval of transmission charges of Rs.8152.78 lakh for the year 2000-01 in accordance with Ministry of Power notification dated 16.12.1997. The petitioner filed an interlocutory application (No. 32/2000) also for an interim order for payment of transmission tariff by the respondents.

3. Ministry of Power under its letter dated 22.2.1995 had accorded its approval for implementation of the transmission system at a cost of Rs.68119 lakh which included the apportioned approved cost of Rs.20626 lakh for the transmission line. However, in the petition dated 4.7.2000, it was stated that the estimated completion cost of the transmission line was Rs.36927.38 lakh. It was also stated that the Revised Cost Estimates for the transmission system for Rs.101010 lakh were under consideration of the Central Government.

4. The interlocutory application was disposed of by the Commission by its order dated 9.11.2000, approving tariff on provisional basis. The petitioner was, however, granted liberty to approach the Commission for revision of transmission charges, after the Revised Cost Estimates for the transmission system were approved by the competent authority, the Cabinet Committee on Economic Affairs (CCEA).

5. Ministry of Power approved the Revised Cost Estimates on 22.3.2001 for Rs.101010 lakh for the transmission system. The apportioned approved cost and completion cost of the transmission line, subject matter of the petition, were communicated to the Commission as Rs.29743 lakh and Rs.35635 lakh respectively, through the amended petition dated 21.12.2001. The petitioner also claimed annual tariff of Rs.7667.14 lakh based on gross block of Rs.35560 lakh. However, for the purpose of determination of tariff only, the apportioned approved cost of Rs.29743 lakh was considered by the Commission, and the transmission charges of Rs.6416.44 lakh were accordingly approved by order dated 4.7.2002. Thereafter, the petitioner made an application on 4.10.2002 for review of the said order dated 4.7.2002, which was taken on the file of the Commission as Review Petition No. 102/2002, on the ground that the re-apportioned approved cost of the transmission line was Rs.33176 lakh. The application for review was dismissed by order dated 1.1.2003 with the following observations:

“8. The petitioner has been allowed tariff based on apportioned approved cost of Rs.297.43 crore, the details of which were furnished by the petitioner itself. Therefore, it cannot be a case of review on the ground of error apparent on the face of record. Obviously, no such error exists nor has any error been pointed out by the petitioner. According to the petitioner, the re-

apportioned approved cost of Rs.331.76 crore is based on actual booking of expenditure. The petitioner has explained that this could not be placed on record before the Commission as the information was available in different departments of the petitioner company and this could not be collected and collated before filing of affidavit, despite exercise of due diligence. It is argued on behalf of the petitioner that it is valid ground for review of the order prescribed under the law.

9. We have considered the submissions made on behalf of the petitioner and perused the record. We are satisfied that the approval of tariff based on approved apportioned cost of Rs.297.43 crore as intimated by the petitioner earlier does not call for review. The re-apportioned cost of Rs.331.76 crore now placed on record by the petitioner were available with the petitioner, may be in different departments under its control. Therefore, it cannot be said that the new evidence now produced by the petitioner was either not available or it could not be produced by the petitioner after exercise of due diligence. The different departments of the petitioner cannot be treated as entities separate from the petitioner for this purpose. It has also been submitted on behalf of the petitioner that the revised cost estimates of the project, based on completion cost of Rs.356.35 crore are presently under consideration of the competent authority. We do not consider this fact to be relevant for the purpose of review of order dated 4.7.2002. We, therefore, do not find any merit in the submissions made on behalf of the petitioner in support of review of order dated 4.7.2002. Therefore, the application for review is dismissed at admission stage itself.”

6. The said order dated 1.1.2003 has acquired finality since no further proceedings seem to have been taken by any of the parties.

7. Meanwhile, the transmission charges for the tariff periods 2001-04 and 2004-09 have also been approved by the Commission by taking the capital cost of Rs.29743 lakh as the base.

8. The petitioner has now stated that the administrative approval of the Revised Cost Estimates II of the transmission system has been accorded by the Central Government in Ministry of Power vide letter dated 2.12.2005 at a cost of Rs.105990

lakh, which includes apportioned cost of Rs.35560.44 lakh for the transmission line the completion cost of which is stated to be Rs.35560.44 lakh. Accordingly, the petitioner has made the present interlocutory application for revision of tariff. As already noted, the revised tariff of Rs.7610.45 lakh has been claimed by the petitioner in the present application.

9. West Bengal State Electricity Board in its reply has opposed revision of tariff claimed by the petitioner. It has been stated that retail tariff up to 31.3.2007 has already been approved by the West Bengal Electricity Regulatory Commission and, therefore, there is no scope for recovery from the consumers of the additional amount of transmission charges claimed by the petitioner for the prior period.

10. We have heard the representatives of the petitioner. None was present on behalf of the respondents.

11. The petitioner has argued that the Commission in its order dated 9.11.2000 in IA No. 32/2000 had granted liberty to the petitioner to seek revision of tariff after approval of the Revised Cost Estimates and accordingly, the application is maintainable. We are afraid we cannot accept the contention of the petitioner. The liberty granted to the petitioner was for revision of provisional transmission charges approved under the said order dated 9.11.2000, in IA No. 32/2000, as it was stated in the petition that approval of the Revised Cost Estimates was under consideration of the CCEA. The approval for the Revised Cost Estimate I was accorded by Ministry of Power under its letter dated 22.3.2001, which was taken into

account while approving the transmission charges for the year 2000-01 by order dated 4.7.2002. Accordingly, liberty granted to the petitioner by order dated 9.11.2000 stands exhausted. An application for review of the order dated 4.7.2002 was also dismissed. Revision of tariff at this stage will amount to nullifying the order dated 1.1.2003 in Review Petition No. 102/2002, which otherwise has become final.

12. We are constrained to point out that after approval of the Revised Cost Estimates I, on 22.3.2001, the competent authority has approved the Revised Cost Estimates II on 2.12.2005 after 4 years and 9 months, even though the system had been commissioned in the year 2000 itself. The representatives of the petitioner could not explain the reasons for such an inordinate delay in approving the Revised Cost Estimates II. We further notice that though the Revised Cost Estimates II were approved on 2.12.2005, the present application has been made on 16.1.2007, that is, after more than one year of the approval of the Revised Cost Estimates II. For this delay again, there is no explanation.

13. The petitioner's claim involves retrospective revision of the transmission charges for nearly seven years, which the respondents are to recover from the consumers. We agree with the plea of West Bengal State Electricity Board that retrospective recovery of the revised tariff for all these years may be difficult, if not impossible. Revision of tariff for the year 2000-01 based on the Revised Cost Estimates II will have the cascading effect on the transmission tariff for the subsequent years as well since the petitioner proposes to seek revision of tariff for

these years. On consideration of the facts and circumstances of the case, we are of the opinion that revision of the transmission charges for the transmission line for the year 2000-01 cannot be allowed. The petitioner may, if so advised, make an appropriate application for revision of the transmission charges from an appropriate date. The application when made will be considered in accordance with law.

14. With the above observations, the present application stands dismissed.

**Sd/-  
(BHANU BHUSHAN)  
MEMBER**

**Sd/-  
(ASHOK BASU)  
CHAIRPERSON**

**Dated, New Delhi the 5<sup>th</sup> March, 2007**