

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.133/2009**

**Coram:**

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member

**DATE OF HEARING: 26.10.2010**

**DATE OF ORDER: 1.12.2010**

**In the matter of**

Approval of transmission tariff for ICTs at Kishenpur under Dulhasti transmission system in Northern Region for the period from 1.4.2009 to 31.3.2014.

**And**

**In the matter of**

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

Vs

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited, Jaipur
2. Ajmer Vidyut Vitaran Nigam Ltd., Jaipur
3. Jaipur Vidyut Vitaran Nigam Ltd, Jaipur
4. Jodhpur Vidyut Vitaran Nigam Ltd, Jaipur
5. Himachal Pradesh State Electricity Board, Shimla
6. Punjab State Electricity Board, Patiala
7. Haryana Power Purchase Centre, Panchkula
8. Power Development Department, Govt. of J&K, Jammu
9. Uttar Pradesh Power Corporation Ltd, Lucknow
10. Delhi Transco Ltd, New Delhi
11. BSES Yamuna Power Limited, New Delhi
12. BSES Rajdhani Power Ltd., New Delhi
13. North Delhi Power Ltd., New Delhi
14. Chandigarh Administration, Chandigarh
15. Uttarakhand Power Corporation Ltd, Dehradun
16. North Central Railway, Allahabad
17. New Delhi Municipal Council, New Delhi **.....Respondents**

**The following were present:**

1. Shri U.K.Tyagi, PGCIL
2. Shri M.M. Mondal, PGCIL



3. Shri Rajiv Gupta, PGCIL
4. Shri T.P.S.Bawa, HPCC

### **ORDER**

The petition has been filed for approval of tariff for ICTs at Kishenpur under Dulhasti Transmission System (the transmission system) associated with Northern Region for the period 1.4.2009 to 31.3.2014, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 regulations"). The petitioner has further prayed for the reimbursement of expenditure from the beneficiaries towards publication of notices in newspapers and petition filing fee be approved. The petitioner has made the following additional prayers:-

- (a) To approve reimbursement of petition filing fee and publication of notices in the newspaper as per the 2009 regulations; and
  - (b) To consider and approve for inclusion of service tax as one of the components to be recovered in transmission charges.
2. The transmission asset was declared under commercial operation on 1.10.1997.
  3. The annual transmission charges for the period from 1.4.2004 to 31.3.2009 were approved by the Commission in its order dated 9.9.2005 in Petition No.



104/2004 at a gross block of ₹4999.00 lakh as on 31.3.2009 and thereafter, no projected additional capital expenditure is involved for the transmission asset.

4. The petitioner has claimed the transmission charges as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	263.95	137.64	137.64	137.64	137.64
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	524.26	524.26	524.26	524.26	524.26
Interest on Working Capital	25.34	23.22	23.76	24.33	24.93
O & M Expenses	178.16	188.36	199.14	210.52	222.56
<b>Total</b>	<b>991.71</b>	<b>873.48</b>	<b>884.80</b>	<b>896.75</b>	<b>909.39</b>

5. The details submitted by the petitioner in support of its claim for interest on working capital are given hereunder:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	26.72	28.25	29.87	31.58	33.38
O & M expenses	14.85	15.70	16.60	17.54	18.55
Receivables	165.29	145.58	147.47	149.46	151.57
<b>Total</b>	<b>206.86</b>	<b>189.53</b>	<b>193.94</b>	<b>198.58</b>	<b>203.50</b>
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
<b>Interest</b>	25.34	23.22	23.76	24.33	24.93

6. Reply to the petition has been filed by the respondent Uttar Pradesh Power Corporation Ltd. (UPPCL). No comments or suggestions have been received from the general public in response to the notices published by the petitioner under section 64 of the Electricity Act, 2003.



7. UPPCL in its reply has made following submission:
- (i) In regard to revision of O & M expenses, once the normative parameters have been defined , the question of considering actual does not arise. In case actual are to be considered then the whole tariff needs to be based on actual and the 2009 regulations needs to be amend. The pick and choose approach should not be permitted;
  - (ii) The entire debt amount has already been paid and amount of depreciation is an additional earning of the petitioner. Therefore, the treatment of depreciation amount for future may be done either depreciation is not charged for the balance period or a part of O & M may be created by the amount of depreciation earned by the petitioner;
  - (iii) The licence is the onus of the licensee and therefore, there is no justification to pass on the burden to the consumers; and
  - (iii) As the Commission has already deferred the application of service tax vide its order dated 5.11.2009 in Petition No. 62/2009, there is no need to raise the issue by the petitioner again in each petition.

8. The petitioner in its rejoinder dated 4.11.2010 has made following submissions:

- (i) In regard to O & M expenses, the petitioner has submitted that per ckt. km. and per bay O & M rates considered are based on the 2004 regulations. The petitioner has further submitted that the wage revision for the executive levels has already been done, however, for the non-executive levels, the wage revision is being carried out now. In its opinion the total impact of wage hike would be more as compared to the compensation provided in the O & M rates. Accordingly, he will approach before the Commission for additional manpower cost on account of wage revision during the period 2009-14 for claiming in the tariff;
- (ii) In regard to treatment of depreciation, petitioner has submitted that the tariff has been calculated in accordance with 2009 regulations;
- (iii) In regard to licence fee, the petitioner has submitted that tariff allowed covers O & M expenses during the operation phase of the project. The rates for O & M have been worked out based on the past 5 year actual O & M expenses. The Payment of toward licence fee is not represented in those actual O & M expenses and therefore extra cost on the petitioner. Therefore, this extra cost burden during O & M phase needs to be reimbursed;

(iv) In regard to service tax, the petitioner has submitted that the Government of India vide their Notification No. 11/2010 dated 27.2.2010 read with Notification No. 45/2010, dated 27.2.2010 has exempted transmission service from service tax. Further, in case the said notification regarding granting of exemption to transmission service from service tax is withdrawn on later date, the beneficiaries shall have to share the serviced tax paid by the petitioner.

9. We have carefully considered the objections of UPPCL and reply filed by the petitioner. The tariff of the transmission system including treatment of depreciation has been determined in this order strictly in accordance with the provisions of 2009 regulations. As regards the reimbursement of licence fee, decision on the same will be intimated in due course. In regard to service tax, reimbursement of filing fee and publication expenditure, the same has been dealt with in relevant paras of the order.

### **CAPITAL COST**

10. As per clause (2) of Regulation 7 of the 2009 regulations, the project cost admitted by the Commission for determination of tariff prior to 1.4.2009 shall form the basis for determination of tariff.



11. The petitioner has claimed the capital expenditure of ₹4999.00 lakh, which was admitted vide order dated 9.9.2005 in Petition No. 104/2004. The petitioner has not claimed any projected additional capitalization.

12. Accordingly, gross block of ₹4999.00 lakh as on 31.3.2009 has been considered for the purpose of tariff.

### **DEBT- EQUITY RATIO**

13. Clause (2) of Regulation 12 of the 2009 regulations *inter alia* provides that,-

“(2) In case of the generating station and the transmission system declared under commercial operation prior to 1.4.2009, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2009 shall be considered.”

14. The petitioner has claimed tariff based on debt-equity ratio of 40.01:59.99 as admitted on 31.3.2009. The same debt-equity ratio has been considered for the purpose of tariff.

### **RETURN ON EQUITY**

15. Regulation 15 of the 2009 regulations provides that,-

“15. (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 12.

(2) Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per clause (3) of this regulation:

Provided that in case of projects commissioned on or after 1st April, 2009, an additional return of 0.5% shall be allowed if such projects are completed within the timeline specified in **Appendix-II**:



Provided further that the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever.

(3) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the year 2008-09 applicable to the concerned generating company or the transmission licensee, as the case may be:

Provided that return on equity with respect to the actual tax rate applicable to the generating company or the transmission licensee, as the case may be, in line with the provisions of the relevant Finance Acts of the respective year during the tariff period shall be tried up separately for each year of the tariff period along with the tariff petition filed for the next tariff period.

(4) Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where t is the applicable tax rate in accordance with clause (3) of this regulation.

**Illustration.-**

(i) In case of the generating company or the transmission licensee paying Minimum Alternate Tax (MAT) @ 11.33% including surcharge and cess:

Rate of return on equity =  $15.50 / (1 - 0.1133) = 17.481\%$

(ii) In case of generating company or the transmission licensee paying normal corporate tax @ 33.99% including surcharge and cess:

Rate of return on equity =  $15.50 / (1 - 0.3399) = 23.481\%$ ."

16. The petitioner has computed return on equity on pre-tax basis on 11.33% MAT in accordance with tax rate applicable for the year 2008-09 and claimed return on equity of ₹524.26 lakh each year during the tariff period @ 17.481% against the equity base of ₹2999.00 lakh. This has been found to be in order. Accordingly, the petitioner shall be entitled to return on equity @ ₹524.26 lakh each year during the tariff period, as claimed.





## **INTEREST ON LOAN**

17. Regulation 16 of the 2009 regulations provides that,-

"16. (1) The loans arrived at in the manner indicated in regulation 12 shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2009 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2009 from the gross normative loan.

(3) The repayment for the year of the tariff period 2009-14 shall be deemed to be equal to the depreciation allowed for that year:

(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the annual depreciation allowed,.

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the project:

Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered:

Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

(7) The generating company or the transmission licensee, as the case may be, shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company or the transmission licensee, as the case may be, in the ratio of 2:1.

(8) The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing.

(9) In case of dispute, any of the parties may make an application in accordance with the Central Electricity Regulatory Commission (Conduct of Business)



Regulations, 1999, as amended from time to time, including statutory re-enactment thereof for settlement of the dispute:

Provided that the beneficiary or the transmission customers shall not withhold any payment on account of the interest claimed by the generating company or the transmission licensee during the pendency of any dispute arising out of re-financing of loan."

18. As the normative loan and actual loan has already been repaid prior to 2009-14, therefore, no interest on loan has been considered for the purpose of tariff.

### **DEPRECIATION**

19. Regulation 17 of the 2009 regulations provides for computation of depreciation in the following manner, namely:

" 17. (1) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission.

(2) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset.

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(3) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(4) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-III to these regulations for the assets of the generating station and transmission system:

Provided that, the remaining depreciable value as on 31st March of the year closing after a period of 12 years from date of commercial operation shall be spread over the balance useful life of the assets.

(5) In case of the existing projects, the balance depreciable value as on 1.4.2009 shall be worked out by deducting the cumulative depreciation as admitted by the Commission up to 31.3.2009 from the gross depreciable value of the assets.



(6) Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.”

20. The depreciation has been worked out on the admitted capital expenditure of ₹4999.00 lakh as on 31.3.2009. The asset in the petition will complete 12 years as on 31.3.2009 and thus, the depreciation during 2009-10 has been calculated as per straight line method and from 2010-11 onwards, depreciation has been calculated based on the remaining depreciable value to be recovered in the remaining life of the asset. However, there was no actual loan and normative loan outstanding till 31.3.2009, therefore, the remaining depreciable value was spread over the balance useful life of the asset during the tariff period 2004-09.

21. For the period 1.4.2009 to 31.3.2014 the depreciation works out to ₹147.36 lakh each year by applying rate of depreciation of 5.2800% as shown below:

( ₹ in lakh)

Details of Depreciation		Up to 31.3.2009	2009-10	2010-11	2011-12	2012-13	2013-14
Gross block as per order dated 9.9.2005		4999.00	4999.00	4999.00	4999.00	4999.00	4999.00
Addition during 2009-14 due to projected Additional Capitalisation			0.00	0.00	0.00	0.00	0.00
Gross block as on 31.3.2009			4999.00	4999.00	4999.00	4999.00	4999.00
Average gross block			4999.00	4999.00	4999.00	4999.00	4999.00
Rate of Depreciation			5.2800%	5.2800%	5.2800%	5.2800%	5.2800%
Depreciable Value	90%		4499.10	4499.10	4499.10	4499.10	4499.10
Elapsed Life			13	12	11	10	9
Remaining Depreciable Value			1915.64	1768.28	1620.93	1473.57	1326.21
<b>Depreciation</b>			<b>147.36</b>	<b>147.36</b>	<b>147.36</b>	<b>147.36</b>	<b>147.36</b>



## OPERATION & MAINTENANCE EXPENSES

22. In accordance with clause (g) of Regulation 19 the 2009 regulations, the following norms for 400 kV and 220 kV bays are prescribed for O & M expenses:

(₹ in lakh)

	Year				
	2009-10	2010-11	2011-12	2012-13	2013-14
Two Nos. 400 kV bay (₹ in lakh per bay)	52.40	55.40	58.57	61.92	65.46
Two Nos 220 kV bay (₹ in lakh per bay)	36.68	38.78	41.00	43.34	45.82

23. The petitioner has claimed O & M expenses for 4 bays which have been allowed. Accordingly, the petitioner's entitlement to O & M expenses has been worked out as given hereunder:

(₹ in lakh)

	Year				
	2009-10	2010-11	2011-12	2012-13	2013-14
400 kV bay (₹ in lakh per bay)	104.80	110.80	117.14	123.84	130.92
220 kV bay (₹ in lakh per bay)	73.36	77.56	82.00	86.68	91.64
<b>Total</b>	<b>178.16</b>	<b>188.36</b>	<b>199.14</b>	<b>210.52</b>	<b>222.56</b>

24. The petitioner has submitted that transmission charges claimed for the year 2009-14 is inclusive of O & M expenses for project derived based on the norms for expenditure as specified under Regulation 19 (g) of the 2009 regulation. Accordingly, O & M expenses for the transmission assets have been considered as per Regulation 19 (g) of the 2009 regulations. The petitioner has further submitted that he reserves the right to approach the Commission for suitable revision in the norms for O & M expenditure in case the impact of wage hike w.e.f 1.1.2007 is more than 50%. The petitioner has further submitted that O & M norms for the period 2009-14, the cost associated with license fees had not been



captured and the licence fee be allowed to be recovered separately from the respondents.

25. The issues have been raised by the petitioner in other petitions also. A view is yet to be taken by the Commission on reimbursement of the cost of wage hike and reimbursement of licence fees. The decision as and when taken will be applicable to the present case also.

### **INTEREST ON WORKING CAPITAL**

26. The components of the working capital and the interest thereon are discussed hereunder:

#### **(i) Receivables**

As per Regulation 18(1)(c)(i) of the 2009 regulations, receivables will be equivalent to two months average billing calculated on target availability level. The petitioner has claimed the receivables on the basis 2 months' transmission charges claimed in the petition. In the tariff being allowed, receivables have been worked out on the basis 2 months' transmission charges.

#### **(ii) Maintenance spares**

Regulation 18(1)(c)(ii) of the 2009 regulations provides for maintenance spares @ 15% per annum of the O & M expenses from

1.4.2009. The value of maintenance spares works out to ₹26.72 lakh as on 1.4.2009.

**(iii) O & M expenses**

Regulation 18(1) (c) (iii) of the 2009 regulations provides for operation and maintenance expenses for one month as a component of working capital. The petitioner has claimed O&M expenses for 1 month of O&M expenses of the respective year as claimed in the petition. This has been considered in the working capital.

**(iv) Rate of interest on working capital**

As per Regulation 18(3) of the 2009 regulations, rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1.4.2009 or on 1st April of the year in which the project or part thereof (as the case may be) is declared under commercial operation, whichever is later. The interest on working capital is payable on normative basis notwithstanding that the transmission licensee has not taken working capital loan from any outside agency. The petitioner has claimed interest on working capital @ 12.25% based on SBI PLR as on 1.4.2009, which is in accordance with the 2009 regulations and has been allowed.

27. The necessary computations in support of interest on working capital are appended hereinbelow:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	26.72	28.25	29.87	31.58	33.38
O & M expenses	14.85	15.70	16.60	17.54	18.55
Receivables	145.45	147.23	149.12	151.11	153.22
Total	187.02	191.18	195.58	200.23	205.15
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
<b>Interest</b>	<b>22.91</b>	<b>23.42</b>	<b>23.96</b>	<b>24.53</b>	<b>25.13</b>

### **TRANSMISSION CHARGES**

28. The transmission charges being allowed for the transmission asset are summarised below:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	147.36	147.36	147.36	147.36	147.36
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	524.26	524.26	524.26	524.26	524.26
Interest on Working Capital	22.91	23.42	23.96	24.53	25.13
O & M Expenses	178.16	188.36	199.14	210.52	222.56
<b>Total</b>	<b>872.68</b>	<b>883.39</b>	<b>894.71</b>	<b>906.66</b>	<b>919.30</b>

### **Application fee and the publication expenses**

29. The petitioner has sought approval for the reimbursement of fee paid by it for filing the petition. In accordance with our decision in order dated 11.1.2010 in Petition No. 109/2009, the petitioner shall be entitled to recover the filing fee from the beneficiaries.

30. Accordingly, expenses incurred by the petitioner on application filing fees and publication of notices in connection with the present petition shall be directly recovered from the beneficiary on pro rata basis.

### **Service Tax**

31. Presently, service tax on transmission service has been exempted by Government of India vide its notification No. 20/2010 dated 27.2.2010 read with notification No. 45/2010 dated 20.7.2010. Therefore, prayer made by the petitioner to recovery of the service tax on transmission charges from the beneficiaries has become infructuous.

32. The transmission charges allowed shall be recovered on monthly basis in accordance with Regulation 23 and shall be shared by the respondent in accordance with Regulation 33 of the 2009 regulations.

33. This order disposes of Petition No. 133/2009.

sd/-  
**(V.S.VERMA)**  
**MEMBER**

sd/-  
**(S.JAYARAMAN)**  
**MEMBER**

sd/-  
**(Dr. PRAMOD DEO)**  
**CHAIRPERSON**

