

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.82/2010

Coram:

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

DATE OF HEARING: 19.8.2010

DATE OF ORDER: 15.10.2010

In the matter of

Approval of transmission tariff for Chamera Stage-I 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 Padmjit Singh, PGCIL
5. Shri T.P.S.Bawa, HPCC
6. Shri A.N.Ghosh, UPPCL

ORDER

The petition has been filed for approval of tariff for Chamera Stage-I 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 invoke the provision of Regulation 44 of the 2009 regulations for relaxation of regulations 15 (3) of the 2009 regulations so that grossing up the base rate shall be considering the revised rate of MAT as per the Finance Act, 2009 for the year 2009-10 and as per the Finance Act, 2010 for the year 2010-11 and subsequent years and allow consequential impact on tariff for 2009-14 period accordingly;
- (b) To approve reimbursement of petition filing fee and publication of notices in the newspaper as per the 2009 regulations;
- (c) Allow to recover the service tax on transmission charges separately from the respondents, if the petitioner is subjected to such service tax; and
- (d) Allow reimbursement of licence fee separately from the respondents.

2. The investment approval for the transmission system was accorded by the Central Government in Ministry of Power vide letter dated 19.10.1995 at an revised cost estimate of ₹28598.00 lakh, including IDC of ₹6907.00 lakh. The transmission line was declared under commercial operation w.e.f. 1.5.1994.

3. The annual transmission charges for the period from 1.4.2004 to 31.3.2009 decided by the Commission in its order dated 2.2.2006 in Petition No. 109/2004 were revised vide order dated 29.2.2008 at a gross block of ₹ 24629.96 lakh as on 31.3.2009 and thereafter, no 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	470.38	470.38	470.38	470.38	470.38
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	2105.87	2105.87	2105.87	2105.87	2105.87
Interest on Working Capital	71.57	72.60	73.68	74.82	76.02
O & M Expenses	357.41	377.90	399.53	422.36	446.42
Total	3005.23	3026.75	3049.46	3073.43	3098.69

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	53.61	56.68	59.93	63.35	66.96
O & M expenses	29.78	31.49	33.29	35.20	37.20
Receivables	500.87	504.46	508.24	512.24	516.45
Total	584.26	592.63	601.46	610.79	620.61
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	71.57	72.60	73.68	74.82	76.02

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) Subsequent to the payment of the entire normative debt up to 31.3.2004, depreciation was spread over the balance life of the system @ of ₹470.38 lakh/year. In the absence of creation of any depreciation fund to meet the investment on future assets, this amount of depreciation is an additional earning by the petitioner over and above return on equity. It has been suggested that a fund may be created with proper accounting thereof, for the excess amount left over as depreciation after adjusting the same in O & M expenses and the same may be ploughed into the capital cost of the new schemes so that the beneficiaries who have over paid now may reap the benefit of lower capital cost in future;

(ii) The prayer of the petitioner for wage revision is not tenable in the light of the Commission's order dated 11.2.2010 in Petition No. 262/2009; and

(iii) The licence is the onus of the licensee and therefore, there is no justification to pass on the burden to the consumers.

8. We have considered the objections of UPPCL. 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.

CAPITAL COST

9. 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.

10. The petitioner has claimed the capital expenditure of ₹24629.96 lakh, which was admitted vide order dated 2.2.2006 read with order dated 29.2.2008 in Petition No. 109/2004. The petitioner has not claimed any additional capitalization.

11. Accordingly, gross block of ₹24629.96 lakh as on 31.3.2009 has been considered for the purpose of tariff.

DEBT- EQUITY RATIO

12. 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.”

13. The petitioner has claimed tariff based on debt-equity ratio of 51.09:48.91 as admitted on 31.3.2009. The same debt-equity ratio has been considered for the purpose of tariff.

RETURN ON EQUITY

14. 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 trued 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 = $15.50 / (1 - 0.3399) = 23.481\%$."

15. 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 ₹2105.87 lakh each year during the tariff period @ 17.481% against the equity base of ₹12583.83 lakh. This has been found to be in order. Accordingly, the petitioner shall be entitled to return on equity @ ₹2105.87 lakh each year during the tariff period, as claimed.

16. The Commission vide its order dated 3.8.2010 in Petition No. 17/2010 has already taken a decision to amend the 2009 regulations. The relevant portion of the said order is extracted as under:

"We are of the view that this issue of 'grossing up the base rate with the normal tax rate for the year 2008-09' is generic in nature and therefore, it will be appropriate to make suitable provisions in the 2009 regulations to cater to any future changes in the tax rate. Accordingly, we direct the staff of the Commission to prepare and submit draft amendment to the 2009 regulations for allowing grossing up of base rate of return with the applicable tax rate as per the Finance Act for the relevant year and direct settlement of tax liability between the generating company/transmission licensee and the beneficiaries/long term transmission customers on year to year basis. Any under/over recovery on account of direct settlement of tax liability shall be subject to the final adjustment at the time of true up exercise."

17. In view of our above order the prayer of the petitioner will be taken care of after amendment of the regulations.

INTEREST ON LOAN

18. 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."

19. As the entire loan has already been repaid during the years 2001-04, therefore, no interest on loan has been considered for the purpose of tariff.

DEPRECIATION

20. 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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xxxx

(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."

21. The depreciation has been worked out on the admitted capital expenditure of ₹24629.95 lakh as on 31.3.2009. The balance useful life of the transmission system as on 1.4.2004 has been considered 24 years vide order dated 2.2.2006 read with order dated 29.2.2008 in Petition No. 109/2004. In line with said orders in petition No. 109/2004, the depreciation has been worked out by spreading the balance depreciable value over the remaining useful life of the transmission system.

22. For the period 1.4.2009 to 31.3.2014 the depreciation works out to ₹470.38 lakh each year by applying rate of depreciation of 5.2016% 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 2.2.2006 read with order dated 29.2.2008		24629.96	24629.96	24629.96	24629.96	24629.96	24629.96
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			24629.96	24629.96	24629.96	24629.96	24629.96
Average gross block			24629.96	24629.96	24629.96	24629.96	24629.96
Rate of Depreciation			5.2016%	5.2016%	5.2016%	5.2016%	5.2016%
Depreciable Value	90%		21985.76	21985.76	21985.76	21985.76	21985.76
Elapsed Life			14	15	16	17	18
Balance Useful life of the asset			19	18	17	16	15
Remaining Depreciable Value			8937.14	8466.76	7996.39	7526.01	7055.64
Depreciation			470.38	470.38	470.38	470.38	470.38

OPERATION & MAINTENANCE EXPENSES

23. In accordance with clause (g) of Regulation 19 the 2009 regulations, the following norms for 400 kV D/C, twin conductor, transmission line and 400 kV bays are prescribed for O & M expenses:

	Year				
	2009-10	2010-11	2011-12	2012-13	2013-14
400 kV D/C transmission line (Twin conductor) (₹ in lakh /km)	0.627	0.663	0.701	0.741	0.783
400 kV bays (₹ in lakh per bay)	52.40	55.40	58.57	61.92	65.46

24. The petitioner has claimed O & M expenses for 235.74 ckt.km. and 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 D/C transmission line (Twin conductor) Chamera-Moga Transmission line (235.74 Ckt.km)	147.81	156.30	165.25	174.68	184.58
400 kV D/C transmission line Chamera-Jalandhar Ckt I & II (2 bays) and 250 MVA ICT-I and-II (2 bays) at Moga sub-station	209.60	221.60	234.28	247.68	261.84
Total	357.41	377.90	399.53	422.36	446.42

25. The petitioner has submitted that O & M expenditure for the year 2009-14 had been arrived at on the basis of normalized actual O & M expenses during the year 2003-04 to 2007-08. The wage hike of 50% on account of pay revision of the employees of public sector undertaking has also been considered while calculating the O & M charges for the tariff period 2009-14. The petitioner has further submitted that it 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. These claims as and when made will be dealt with in accordance with law.

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 ₹ 53.61 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	53.61	56.69	59.93	63.35	66.96
O & M expenses	29.78	31.49	33.29	35.20	37.20
Receivables	500.87	504.46	508.24	512.24	516.45
Total	584.27	592.63	601.47	610.79	620.61
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	71.57	72.60	73.68	74.82	76.03

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	470.38	470.38	470.38	470.38	470.38
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	2105.87	2105.87	2105.87	2105.87	2105.87
Interest on Working Capital	71.57	72.60	73.68	74.82	76.03
O & M Expenses	357.41	377.90	399.53	422.36	446.42
Total	3005.23	3026.74	3049.46	3073.43	3098.69

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. 82/2010.

sd/-	sd/-	sd/-	sd/-
(M.DEENA DAYALAN)	(V.S.VERMA)	(S.JAYARAMAN)	(Dr. PRAMOD DEO)
MEMBER	MEMBER	MEMBER	CHAIRPERSON