

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.110/2009

Coram:

- 1. Shri S.Jayaraman, Member**
- 2. Shri V.S.Verma, Member**
- 3. Shri M.Deena Dayalan, Member**

DATE OF HEARING: 23.12.2010

DATE OF ORDER: 25.2.2011

In the matter of

Determination of transmission tariff for Kawas Transmission System in Western 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. Madhya Pradesh Power Trading Company Ltd., Jabalpur
 2. Maharashtra State Electricity Distribution Co. Ltd., Mumbai
 3. Gujarat Urja Vikas Nigam Ltd., Vadodara
 4. Electricity Deptt., Govt., of Goa, Panaji
 5. Electricity Department, Administration of Daman and Diu, Daman
 6. Electricity Department, Administration of Dadra Nagar Haveli, Silvassa
 7. Chhattisgarh State Electricity Board, Raipur
 8. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Ltd. Indore
-Respondents**

The following were present:

1. Shri M.M. Mondal, PGCIL
2. Shri Rajiv Gupta, PGCIL
3. Shri Rakesh Prasad, PGCIL
4. Shri Manoj Dubey, Advocate, MPPTCL

ORDER

The petition has been filed for determination of tariff for Kawas Transmission System (herein after referred to as "the transmission system") in



Western 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 made the following additional prayers to:-

- (a) Approve reimbursement of petition filing fee, licence fee and publication of notices in the newspaper and other expenditure in respect of filing of petition;
- (b) Consider and approve for inclusion of "service tax" as one of the components to be covered in transmission charges.

2. Based on the request of the petitioner, the Commission in its order dated 1.2.2010 in Interlocutory Application No. 5/2010 allowed the petitioner to file a revised petition incorporating the expected additional capital expenditure during 2009-14. The petitioner vide its letter dated 23.4.2010 submitted that there was no immediate requirement to revise the petition on additional capital expenditure and requested the Commission to take up the petition for hearing. The petition was heard on 23.12.2010 after completion of pleadings.

3. The transmission system was declared under commercial operation progressively from 23.3.1992 to 1.12.1992. Transmission charges up to 31.3.2009 in respect of the transmission system were initially approved vide



the order dated 26.10.2005 in Petition No. 114/2004 and were subsequently revised vide order dated 14.3.2008, in the process of implementation of the judgment of the Hon'ble Appellate Tribunal for Electricity dated 16.5.2007 in Appeal No. 121 of 2005.

4. The petitioner has claimed the transmission charges in respect of the transmission system as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	57.14	57.14	57.14	57.14	57.14
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	274.43	274.43	274.43	274.43	274.43
Interest on Working Capital	20.17	20.92	21.73	22.58	23.47
O & M Expenses	265.00	280.11	296.27	313.15	331.03
Total	616.74	632.60	649.57	667.30	686.07

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	39.75	42.02	44.44	46.97	49.65
O & M expenses	22.08	23.34	24.69	26.10	27.59
Receivables	102.79	105.43	108.26	111.22	114.35
Total	164.62	170.79	177.39	184.29	191.59
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	20.17	20.92	21.73	22.58	23.47

6. No comments or suggestions have been received from the public in response to the notices published by the petitioner under section 64 of the Electricity Act, 2003. Reply to the petition has been filed by Maharashtra State Electricity Distribution Company Limited (MSEDCL). The objections of MSEDCL pertain to additional cost on account of wage hikes, filing fees

and service tax etc. which have been dealt within relevant praras of this order. During the hearing on 23.12.2010, learned counsel for the Madhya Pradesh Power Trading Company Ltd. (MPPTCL) sought two weeks time to file its reply. However, no reply has been filed by MPPTCL within the stipulated time.

CAPITAL COST

7. As per the last proviso to clause (2) of Regulation 7 of the 2009 regulations, "in case of the existing projects, capital cost admitted by the Commission prior to 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year of the tariff period 2009-14 as may be admitted by the Commission, shall form the basis for determination of tariff".

8. The petitioner has claimed the capital expenditure of ₹3139.72 lakh, which was admitted vide order dated 26.10.2005 read with order dated 14.3.2008 in Petition No. 114/2004. The petitioner has not claimed any additional capital expenditure incurred or projected to be incurred during the period 2009-14.

9. Accordingly, gross block of ₹ 3139.72 lakh as on 31.3.2009 has been considered as the capital cost for the purpose of tariff.

DEBT- EQUITY RATIO

10. 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.”

11. Since the transmission system was declared under commercial operation between March to December 1992, the petitioner has claimed tariff based on debt-equity ratio of 50:50 as admitted vide order dated 26.10.2006 in Petition No. 114/2004. The same debt-equity ratio has been considered for the purpose of tariff during the period 2009-14 in terms of clause (2) of Regulation 12 as quoted above.

RETURN ON EQUITY

12. Regulation 15 of the 2009 regulations provides as under:

“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."

13. The petitioner has submitted that it would approach the Commission if and when the applicable MAT rate undergoes change or is revised as per the Finance Act of respective year as provided under Regulation 15 (3) of the 2009 regulations. The Commission is in the process of amending the regulation to allow grossing up of the ROE as per the applicable MAT rate in accordance with the relevant Finance Act which would take care of the interest of the petitioner.

14. 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 ₹ 274.43 lakh each year during the tariff period @ 17.481% against the equity base of ₹ 1569.86 lakh. This has been found to be in order. Accordingly, the petitioner shall be entitled to return on equity @ ₹ 274.43 lakh each year during the tariff period, as claimed.



INTEREST ON LOAN

15. Regulation 16 of the 2009 regulations provides as under:-

"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.”

16. As entire loan has been repaid prior to 31.3.2004, the petitioner has not claimed any interest on loan. Accordingly, interest on loan has been considered as NIL in respect of the transmission system.

DEPRECIATION

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

“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."

18. Depreciation has been worked out on the basis of capital expenditure of ₹3139.72 lakh as on 1.4.2009 by applying rate of depreciation of 5.2800% as under:

		(₹ 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 26.10.2005 read with order dated 14.3.2008		3139.72	3139.72	3139.72	3139.72	3139.72	3139.72
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			3139.72	3139.72	3139.72	3139.72	3139.72
Rate of Depreciation			5.2800%	5.2800%	5.2800%	5.2800%	5.2800%
Depreciable Value	90%		2825.75	2825.75	2825.75	2825.75	2825.75
Balance Useful life as on 1.4.2004 is 23 years			18	17	16	15	14
Remaining Depreciable Value			1028.52	971.38	914.24	857.10	799.96
Depreciation			57.14	57.14	57.14	57.14	57.14

OPERATION & MAINTENANCE EXPENSES

19. In accordance with clause (g) of Regulation 19 the 2009 regulations, the following norms for 220 kV D/C single conductor transmission line and 220 kV bays have been specified for O & M expenses:

	(₹ in lakh)				
	Year				
	2009-10	2010-11	2011-12	2012-13	2013-14
220 kV D/C single conductor transmission line (₹ in lakh /km)	0.269	0.284	0.301	0.318	0.336
220 kV bays (₹ in lakh per bay)	36.68	38.78	41.00	43.34	45.82



20. The petitioner has claimed O & M expenses for 167 ckt.km. and 6 bays. 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
220 kV D/C single conductor transmission line (167 Ckt.km)	44.92	47.43	50.27	53.11	56.11
220 kV bays (6 bays)	220.08	232.68	246.00	260.04	274.92
Total	265.00	280.11	296.27	313.15	331.03

21. MSEDCL has submitted that the Commission should not consider the impact of wage hike at present unless and until the exact quantum of the wage hike is declared by the petitioner. The petitioner has submitted that while fixing the norms for O & M expenditure in the 2009 regulations, the Commission had factored in the wage hike of 50% on account of pay revision of the employees of public sector undertaking. The petitioner has submitted that it would approach the Commission for suitable revision in the norms of O & M expenses in case the impact of wage hike w.e.f. 1.1.2007 is more than 50%. With reference to the submission of the petitioner, it is clarified that if any such application is made, it will be dealt with in accordance with law.

INTEREST ON WORKING CAPITAL

22. 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 of annual transmission charges. The petitioner has claimed the receivables on the basis of 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 specified in Regulation 19. The value of maintenance spares has been accordingly worked out.

(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 which considered for computing 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 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.

23. The computations in support of interest on working capital are given as under:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	39.75	42.02	44.44	46.97	49.65
O & M expenses	22.08	23.34	24.69	26.10	27.59
Receivables	102.79	105.43	108.26	111.22	114.34
Total	164.62	170.79	177.39	184.28	191.58
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	20.17	20.92	21.73	22.57	23.47

TRANSMISSION CHARGES

24. 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	57.14	57.14	57.14	57.14	57.14
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	274.43	274.43	274.43	274.43	274.43
Interest on Working Capital	20.17	20.92	21.73	22.57	23.47
O & M Expenses	265.00	280.11	296.27	313.15	331.03
Total	616.73	632.60	649.57	667.29	686.07

Application fee and the publication expenses

25. The petitioner has sought approval for the reimbursement of fee paid by it for filing the petition for determination of transmission tariff.

26. MSEDCL has submitted that the claim of filing fee should be dealt as per the decision taken by Commission vide order dated 11.9.2008 in Petition No. 129/2005 (Suo motu). It is clarified that the said decision was applicable to the tariff period 2004-09. However, Regulation 42 of the 2009 regulation provides for reimbursement of filing fees and expenses on publication of notices may be allowed in the discretion of the Commission. 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.

27. 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 beneficiaries on pro rata basis.

Service Tax

28. The prayer of the petitioner for reimbursement of service tax has been opposed by MSEDCL. It has been submitted by the MSEDCL that the applicability of service tax is "service specific" and as on date 114 services are included as taxable service wherein electricity transmission and wheeling charges are not covered in the list. Moreover, the

petitioner has filed petition No. 62/2009 with regard to reimbursement of service tax. It is clarified that the Commission in order dated 23.9.2010 in Petition No. 62/2009 has directed that the petitioner is exempted from service tax as per the extant policy of the Government of India, the prayer of the petitioner has become infructuous.

Licence fee

29. The petitioner has prayed to allow reimbursement of licence fee separately from the respondents. A view in the matter is yet to taken by the Commission.

30. 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.

31. This order disposes of Petition No. 110/2009.

Sd/-
(M. Deena Dayalan)
Member

Sd/-
(V.S.Verma)
Member

Sd/-
(S.Jayaraman)
Member

