

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 37/TT/2011

**Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member**

Date of Hearing: 26.4.2012

Date of Order:14.6.2012

IN THE MATTER OF

Petition under Section 79(1)(c) and (d) read with Section 2(36) (ii) of the Electricity Act, 2003 for determination of provisional transmission tariff for transmission system associated with evacuation of power from Karcham Wangtoo Hydro Electric Project located in the state of Himachal Pradesh to Abdullapur sub-station located in the state of Haryana

**AND
IN THE MATTER OF**

Jaypee Powergrid Limited, New Delhi

....**Petitioner**

Vs

1. Jaypee Karcham Hydro Corporation Ltd., Noida
2. Himachal Sorang Power Ltd., Shimla
3. Government of Himachal Pradesh, Shimla
4. Jaiprakash Power Ventures Ltd., Noida
5. Himachal Pradesh State Electricity Board, Shimla
6. Satluj Jal Vidyut Nigam Ltd., Shimla
7. PGCIL, Gurgaon
8. POSOCO, New Delhi

...**Respondents**

The following were present:

1. Shri Amit Kapur, Advocate for JPL
2. Ms. Poonam Verma, JPL
3. Shri Vishal Anand, JPL
4. Shri Rajiv Bhardwaj, JPL
5. Shri Mukesh Khanna, PGCIL
6. Shri Vishal Gupta, Advocate for Jaiprakash Power Ventures Ltd.

ORDER

The petitioner, i.e., Jaypee Powergrid Ltd., a joint venture company of PGCIL and Jaiprakash Power Ventures Ltd., was granted inter-state transmission licence by the Commission vide order dated 1.10.2007 in Petition No.44/2007 for construction and maintenance of the transmission lines and facilities to be used for evacuation of power from Karcham Wangtoo HEB to the Central Transmission Utility's Abdullapur sub-station located in the State of Haryana, as under:-

- (a) LILO of 400 kV D/C Baspa- Nathpa Jhakri transmission line at Wangtoo;
- (b) 400 kV D/C Karcham Wangtoo Abdullapur transmission line (Quad Conductor);
- (c) 400/200 kV sub-station (Extension) (PGCIL/CTU) at Abdullapur.

2. In the instant petition, the petitioner has sought approval for provisional tariff for the above mentioned assets under Section 79 of the Electricity Act, 2003 read with Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 Tariff Regulations"), and Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as amended from time to time.

3. The petitioner filed the petition on 28.2.2011 seeking provisional tariff, besides other prayers. There was no provision for provisional tariff in the 2009 Tariff Regulations. Through the first amendment to the 2009 Tariff Regulations, clause (4) was introduced under Regulation 5, providing for grant of provisional tariff. Subsequent

to the amendment, the petitioner vide affidavit dated 19.12.2011 requested for approval of provisional tariff as per the amended regulations.

4. Regulation 5 of the 2009 Tariff Regulations (as amended) provides as under:-

"Application for determination of tariff. (1) *The generating company or the transmission licensee, as the case may be, may make an application for determination of tariff in accordance with Central Electricity Regulatory Commission (Procedure for making of application for determination of tariff, publication of the application and other related matters) Regulations, 2004, as amended from time to time or any statutory re-enactment thereof, in respect of the units of the generating station or the transmission lines or sub-stations of the transmission system, completed or projected to be completed within six months from the date of application.*

(2) *The generating company or the transmission licensee, as the case may be, shall make an application as per **Appendix I** to these regulations, for determination of tariff based on capital expenditure incurred duly certified by the auditors or projected to be incurred up to the date of commercial operation and additional capital expenditure incurred duly certified by the auditors or projected to be incurred during the tariff period of the generating station or the transmission system:*

Provided that in case of an existing project, the application shall be based on admitted capital cost including any additional capitalization already admitted up to 31.3.2009 and estimated additional capital expenditure for the respective years of the tariff period 2009-14:

Provided further that application shall contain details of underlying assumptions for projected capital cost and additional capital expenditure, where applicable.

(3) *In case of the existing projects, the generating company or the transmission licensee, as the case may be, shall continue to provisionally bill the beneficiaries or the long-term customers with the tariff approved by the Commission and applicable as on 31.3.2009 for the period starting from 1.4.2009 till approval of tariff by the Commission in accordance these regulations:*

Provided that where the tariff provisionally billed exceeds or falls short of the final tariff approved by the Commission under these regulations, the generating company or the transmission licensee, as the case may be, shall refund to or recover from the beneficiaries or the transmission customers, as the case may be, within six months with simple interest at the following rates for the period from the date of provisional billing to the date of issue of the final tariff order of the Commission:

(i) SBI short-term Prime Lending rate as on 1.4.2009 for the year 2009-10.

(ii) SBI Base Rate as on 1.7.2010 plus 350 basis points for the year 2010-11.

(iii) Monthly average SBI Base Rate from 1.7.2010 to 31.3.2011 plus 350 basis points for the year 2011-12.

(iv) Monthly average SBI Base Rate during previous year plus 350 basis points for the year 2012-13 and 2013-14.

Provided that in cases where tariff has already been determined on the date of issue of this notification, the above provisions, to the extent of change in interest rate, shall be given effect to by the parties themselves and discrepancy, if any, shall be corrected at the time of truing up.

(4) Where application for determination of tariff of an existing or a new project has been filed before the Commission in accordance with clauses (1) and (2) of this regulation, the Commission may consider in its discretion to grant provisional tariff upto 95% of the annual fixed cost of the project claimed in the application subject to adjustment as per proviso to clause (3) of this regulation after the final tariff order has been issued:

Provided that recovery of capacity charge and energy charge or transmission charge, as the case may be, in respect of the existing or new project for which provisional tariff has been granted shall be made in accordance with the relevant provisions of these regulations.”

5. As per Regulation 5(4) of the 2009 Tariff Regulations, the Commission may in its discretion grant provisional tariff if an application has been filed under Regulation 5(1) and (2) of the 2009 Tariff Regulations. Regulation 5(1) of the 2009 Tariff Regulations provides that the application for tariff should be made in accordance with the Central Electricity Regulatory Commission (Procedure for making of application for determination of tariff, publication of the application and other related matters) Regulations, 2004 (hereinafter referred to as "2004 regulations"). Regulation 5(2) of 2009 Tariff Regulations provides that the application shall be made as per Appendix I to the 2009 Tariff Regulations.

6. The petitioner has made the application as per the Appendix I to the 2009 Tariff Regulations. The petitioner has also complied with the requirements of 2004 regulations, such as service of the copy of the application on the beneficiaries, publication of notice and web hosting of the application, etc.

7. 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 read with Regulation 3(6) of the 2004 regulations. However, Himachal Sorang

Power Ltd. (Respondent No. 2), in its reply dated 14.3.2012, has raised the issue of high cost of the transmission lines. Jaiprakash Power Ventures Ltd. (Respondent No. 4), in its reply dated 25.4.2012, has submitted that the transmission of electricity on Karcham Wangtoo-Nathpa Jhakri Transmission Line is within the legal framework. The issues raised by the respondents shall be considered at the time of determination of final tariff.

8. The annual transmission charges claimed by the petitioner for the period 2009-14 are given as under:-

(₹ in lakh)

Assets	Date of commercial operation	2011-12	2012-13	2013-14
LILO of 400 kV DC Baspa-Nathpa-Jhakri transmission line	1.6.2011	462.07	534.91	518.50
Karcham Wangtoo Abdullapur 400 kV DC Quad transmission line (except LILO)	1.4.2012	-	20651.39	20026.04

9. For the purpose of provisional tariff, the following has been considered:-

- (a) The actual expenditure upto COD, as per the CA certificate dated 16.5.2012, i.e. ₹2281.49 lakh and ₹95237.58 lakh for Asset I and Asset II respectively has been considered. The expenditure is prima facie found to be comparable to the cost of the transmission lines developed by PGCIL in snow bound area with similar configuration;
- (b) The equity has been restricted to 30% of the above mentioned capital cost;

- (c) Depreciation has been worked out based on the details provided in the CA certificate dated 16.5.2012 in accordance with the provisions of the 2009 Tariff Regulations;
- (d) The loan data for the year 2011-12 for Asset-I has not submitted by the petitioner and therefore the weighted average rate of interest given in Form-13 submitted vide affidavit dated 19.12.2011 has been considered for Asset I and the weighted average rate of interest submitted vide affidavit dated 24.4.2012 has been considered for Asset II. Details of individual loans shall be taken into consideration at the time of final tariff; and
- (e) Return on Equity, Interest on Working Capital and Operation and Maintenance expenses have been considered in accordance with the provisions of 2009 Tariff Regulations.

10. After prudence check, provisional annual transmission charges for the period 2009-14 in respect of the transmission assets are allowed as given overleaf:-

(₹ in lakh)

Assets	Date of commercial operation	2011-12	2012-13	2013-14
LILO of 400 kV DC Baspa-Nathpa-Jhakri transmission line	1.6.2011	378.64	431.22	416.09
Karcham Wangtoo Abdullapur 400 kV DC Quad transmission line	1.4.2012	-	18876.83	18247.97

11. The provisional transmission charges allowed shall be recovered on monthly basis in accordance with Regulation 33 of the 2009 Tariff Regulations upto 1.7.2011. With effect from 1.7.2011, the billing, collection and disbursement of the transmission charges shall be governed by the provisions of Central Electricity Regulatory

Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010.

12. The provisional transmission charges allowed in this order shall be subject to adjustment as per proviso to clause (3) of Regulation 5 of the 2009 Tariff Regulations after the final tariff is issued.

Sd/-
(M. DEENA DAYALAN)
MEMBER

Sd/-
(V.S. VERMA)
MEMBER

Sd/-
(S. JAYARAMAN)
MEMBER

Sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON