

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 76/2009

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

Date of Order: 10.10.2012

In the matter of:

Revision of the Commission's orders dated 7.8.2009 in Petition No.76/2009 in the light of the judgment of the Appellate Tribunal for Electricity dated 5.4.2011 in Appeal No.193/2010.

And

In the matter of:

Power Grid Corporation of India Ltd., Gurgaon

.....Petitioner

Vs

1. Karnataka Power Transmission Corporation Ltd., Bangalore
2. Transmission Corporation of Andhra Pradesh Limited, Hyderabad
3. Kerala State Electricity Board, Thiruvananthapuram
4. Tamil Nadu Electricity Board, Chennai
5. Electricity Department, Government of Pondicherry, Pondicherry
6. Eastern Power Distribution Company of Andhra Pradesh Limited, Vishakhapatnam
7. Southern Power Distribution Company of Andhra Pradesh Limited, Tirupati
8. Central Power Distribution Company of Andhra Pradesh Limited, Hyderabad
9. Northern Power Distribution Company of Andhra Pradesh Limited, Warangal
10. Bangalore Electricity Supply Company Ltd., Bangalore
11. Gulbarga Electricity Supply Company Ltd., Gulbarga
12. Hubli Electricity Supply Company Ltd., Hubli
13. Mangalore Electricity Supply Company Ltd., Mangalore
14. Chamundeswari Electricity Supply Corporation Ltd., Mysore

...Respondents



ORDER

This order is being issued for implementing the judgment of the Appellate Tribunal for Electricity dated 5.4.2011 in Appeal No. 193 of 2010.

2. The background of the case is that PGCIL, the petitioner herein, filed a petition for revision of transmission tariff due to de-capitalization and additional capital expenditure incurred during 2008-09 for 400 kV Ramagundam Transmission System, including ICT at Khammam and Reactor at Gazuwaka under CTP Augmentation in Southern Region for the period from 1.4.2008 to 31.3.2009, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as "the 2004 regulations"). The Commission by its order dated 7.8.2009 approved the revised transmission tariff for the period 2004-09. While allowing the transmission tariff, the Commission considered the net additional capital expenditure of ₹205.21 lakh during 2008-09, which included decapitalisation of ₹87.86 lakh and additional capital expenditure of ₹293.07 lakh. The net additional capital expenditure was segregated into a notional equity of ₹61.56 lakh and notional loan of ₹143.65 lakh with a Debt to Equity ratio of 70:30. While working out the tariff, the net additional capital expenditure was clubbed with the original capital base. The petitioner funded the additional capital expenditure by borrowing loan of ₹205.00 lakh against Bond XXIX payable at an interest @ 9.2%. However, payment of interest was not admissible since the balance loan including the additional capital expenditure was less than depreciation amount. Accordingly, the Commission had decided in para 19 of the order as given overleaf:-



"The entire original loan was repaid up to 31.3.2005. The petitioner has not claimed interest on loan on account of the expenditure sought to be capitalized. Therefore, we have not considered interest on loan in tariff."

3. The petitioner filed a Miscellaneous Petition bearing Petition No. 235/2009 before the Commission with the following prayers:-

- i) Approve the IOL on De-Capitalization and additional capital expenditure for 2008-09; and
- ii) Approve the revised transmission tariff with De-Capitalization and additional capital expenditure incurred during 2008-09 for the assets covered under this application by considering IOL portion;

4. The Commission, by order dated 20.8.2010, disallowed the prayers of the petitioner in following terms:-

"8. In case of the transmission system, the entire loan was repaid by 31.3.2005. Therefore, the depreciation admissible to the petitioner is sufficient to cover the loan liability arising out of the additional capitalization for the year 2008-09. Due to this reason, the petitioner had not claimed any interest on loan on account of additional capital expenditure in Petition No. 76/2009. During 2008-09, depreciation allowed is only Rs. 619.37 lakh which is sufficient to cover the notional loan liability of Rs. 143.65 lakh arising out of additional capitalization during 2008-09. Therefore, the petitioner does not have a case for interest on loan component of additional capitalization when it is getting sufficient funds to cover the loan liability."

5. Aggrieved by this order, the petitioner filed Appeal No. 193 of 2010 before the Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as "the Tribunal"). The Tribunal in its judgment dated 5.4.2011 has allowed the appeal with the following directions:-

"10. The finding of the Commission militates against the decision of this Tribunal according to which depreciation is an expense and cannot be deployed for deemed repayment of loan. The appellant incurred capital expenditure on additional capitalization of 293.07 lakh and after adjusting the value of de-capitalized assets, the net capital expenditure came to 205.21 lakh. It implies that transmission licensee was denied interest on loan of additional capitalization by adjusting the total depreciation that covered the entire capital assets. In the normative debt equity ratio of 70: 30 the amount of interest on the normative loan of 143.65 lakh would have been legitimately due to the appellant."



11. In this view of the matter, the respondent No. 1 is required to make a fresh computation of interest on loan in the light of the settled principle as formulated in the decision above.

12. Accordingly, the appeal is allowed and the impugned order is set aside. The matter is remitted back to the respondent No. 1 for fresh decision in the light of the observations made above."

6. The Commission preferred a review petition bearing Review Petition No. 8 of 2011 in Appeal No. 193 of 2010 before the Tribunal, which was dismissed vide order dated 10.5.2012. The Commission has filed an appeal in the Supreme Court against the judgment in Appeal No.193/2010. Subject to the outcome of the said appeal, the tariff of the transmission system has been revised in accordance with the directions of the Tribunal in the succeeding paragraphs.

7. The Appellate Tribunal has directed that in the normative debt-equity ratio of 70:30, the amount of interest on the normative loan of ₹143.65 lakh would have been legitimately due to the appellant. Accordingly, the interest on loan approved vide our order dated 7.8.2009 in Petition No. 76/2009 has been revised as under:-

	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Opening Gross Loan	20628.99	20628.99	20628.99	20628.99	20628.99
Cumulative Repayment upto Previous Year	20307.20	20628.99	20628.99	20628.99	20628.99
Net Loan-Opening	321.79	0.00	0.00	0.00	0.00
Additions including additions due to Additional Capital Expenditure	0.00	0.00	0.00	0.00	143.65
Repayment during the year	321.79	0.00	0.00	0.00	21.40
Net Loan-Closing	0.00	0.00	0.00	0.00	122.25
Average Loan	160.89	0.00	0.00	0.00	61.13
Weighted Average Rate of Interest on Loan	3.4966%	3.6229%	3.9283%	4.7643%	6.6614%
Interest	5.63	0.00	0.00	0.00	4.07

8. As a result of revision of interest on loan, interest on working capital has been worked out as per details given hereunder:-

(₹ in lakh)					
	2004-05	2005-06	2006-07	2007-08	2008-09
Maintenance Spares	685.03	726.13	769.70	815.88	864.84
O & M expenses	106.42	110.67	115.21	119.63	124.60
Receivables	825.42	757.96	768.04	777.91	793.57
Total	1,616.87	1,594.76	1,652.96	1,713.43	1,783.01
Interest	165.73	163.46	169.43	175.63	182.76

9. In view of the revision in interest on loan and interest on working capital, the transmission charges for the period 2004-09 has been revised as under:-

(₹ in lakh)					
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	1048.35	600.48	600.48	600.48	619.37
Interest on Loan	5.63	0.00	0.00	0.00	4.07
Return on Equity	2455.77	2455.77	2455.77	2455.77	2460.08
Advance against Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Working Capital	165.73	163.46	169.43	175.63	182.76
O & M Expenses	1277.03	1328.04	1382.58	1435.59	1495.16
Total	4952.51	4547.75	4608.26	4667.46	4761.44

10. All other terms contained in order dated 7.8.2009 in Petition No.76/2009 remain unaltered.

Sd/-	Sd/-	Sd/-	Sd/-
(M. Deena Dayalan) Member	(V.S. Verma) Member	(S. Jayaraman) Member	(Dr. Pramod Deo) Chairperson