

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 04/RP/2015

In Petition No. 102/TT/2013

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member**

Date of Hearing :07.07.2015

Date of Order :10.11.2015

In the matter of:

Review Petition under Regulation 103 (1) of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of order dated 26.12.2014 in Petition No. 102/TT/2013

And in the matter of:

Power Grid Corporation of India Limited,
Saudamini, Plot No. 2,
Sector 29, Gurgaon-122001
Haryana

.....**Petitioner**

Vs

1. Karnataka Power Transmission Corporation Ltd. (KPTCL),
Kaveri Bhawan, Bangalore-560 009
2. Transmission Corporation of Andhra Pradesh Ltd. (APTRANCO),
Vidyut Soudha,
Hyderabad-500 082
3. Kerala State Electricity Board (KSEB),
Vaidyuthi Bhavanam,
Pattom, Thiruvananthapuram-695 004



4. Tamil Nadu Generation and Distribution Corporation Ltd.
NPKRR Maaligai, 800, Anna Salai,
Chennai-600 002
5. Electricity Department
Government of Goa
Vidyuti Bhawan, Panji, Goa-403001
6. Electricity Department, Government of Pondicherry,
Pondicherry-605 001
7. Eastern Power Distribution Company of Andhra Pradesh Ltd. (APEPDCL),
APEPDCL, P&T Colony,
Seethmmadhara, Vishakhapatnam,
Andhra Pradesh
8. Southern Power Distribution Company of Andhra Pradesh Ltd. (APSPDCL),
Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta,
Tirupati-517 501
9. Central Power Distribution Company of Andhra Pradesh Ltd. (APCPDCL),
Corporate Office, Mint Compound,
Hyderabad-500 063
10. Northern Power Distribution Company of Andhra Pradesh Ltd. (APNPDCL),
Opp. NIT Petrol Pump,
Chaitanyapuri, Kazipet,
Warangal-506 004
11. Bangalore Electricity Supply Company Ltd. (BESCOM),
Corporate Office, K. R. Circle,
Bangalore-560 001
12. Gulbarga Electricity Supply Company Ltd. (GESCOM),
Station Main Road, Gulbarga.
Karnataka
13. Hubli Electricity Supply Company Ltd. (HESCOM),
Navanagar, PB Road,
Hubli, Karnataka



14. MESCOM Corporate Office,
Paradigm Plaza, AB Shetty Circle,
Mangalore-575 001

15. Chamundeswari Electricity Supply Corporation Ltd. (CESC),
927, L J Avenue, Ground Floor,
New Kantharaj Urs Road,
Saraswathipuram, Mysore-570 009

16. Thermal Powertech Corporation India Limited,
6-3-1090, C-Block TSR Towers Avenue,
Raj Bhawan Road,
Somajiguda, Hyderabad-500 082

.....**Respondents**

For petitioner : Shri M.G Ramachandran, Advocate, PGCIL
Ms. Anushree Bardhan, Advocate, PGCIL
Ms. Ranjitha Ramachandran, Advocate, PGCIL
Shri M.M. Mondal, PGCIL
Shri S.K. Venkatesan, PGCIL
Shri S.S. Raju, PGCIL
Shri Jasbir Singh, PGCIL

For respondent : None

Order

This review petition has been filed by Power Grid Corporation of India Limited (PGCIL) seeking review of the order dated 26.12.2014 in Petition No. 102/TT/2013, determining the transmission tariff for Thermal Powertech Corporation India Limited- Nellore Pooling Station transmission line for the period starting from the date of commercial operation to 31.3.2014.



Brief facts of the case

2. As per Investment Approval (IA) dated 9.2.2012, the instant transmission asset was scheduled to be commissioned within 27 months from the date of investment approval, i.e. by 1.6.2014. The instant transmission asset was commissioned on 1.9.2013. The Commission, while determining the transmission tariff of the asset covered under the petition, disallowed the claim of the petitioner for additional ROE.

3. The review petitioner has submitted that in the said order, there are errors apparent on the face of the record in respect of the following two aspects:-

- a) Admissibility of additional Return on Equity of 0.5% for early completion of the project work, as per Regulation 15 of the 2009 Tariff Regulations; and
- b) Wrong assumption of the capital cost considered for the purpose of tariff.

Grounds for Review

4. The review petitioner has submitted the following reasons and grounds in support of the review of the order dated 26.12.2014:-

Admissibility of additional Return on Equity of 0.5% under Regulation 15 (2)-Proviso

5. As per Investment Approval (IA) dated 9.2.2012, the instant transmission asset was scheduled to be commissioned within 27 months from the date of IA i.e. by 1.6.2014. Against this the transmission asset was commissioned on 1.9.2013.



Accordingly, the instant asset has been commissioned in 19 months. The Commission in its order dated 26.12.2014 in Petition No. 102/TT/2013 while dealing with the issue of additional RoE observed as under:-

"25.The instant asset has been commissioned in 19 months. The petitioner has claimed additional return on equity of 0.5% for commissioning of the instant assets, which includes transmission line and bay extensions, within the time schedule of 32 months specified in Appendix-II to the 2009 Tariff Regulations. The schedule of 32 months specified in the 2009 Tariff Regulations for grant of additional ROE is for the transmission line and the Regulations do not provide for additional ROE for bay extensions. In the instant petition, the petitioner has claimed the tariff of transmission line and sub-station as single transmission element. Thus, for the purpose of determination of ROE, the petitioner should have claimed the tariff separately for the transmission line and sub-station as individual elements. Since the petitioner has claimed the tariff of transmission line and sub-station as a single transmission element, the additional ROE claimed by the petitioner is not allowed".

6. The review petitioner in support of its prayer for allowing 0.5% additional RoE has submitted as under:-

a) Since the instant project involves a transmission line as the main work and sub-station expansion as the associated work, the qualifying time schedule for additional RoE in regard to the 400 kV D/C Quad transmission line is 32 months in plain areas provided in Para C of Appendix II to the 2009 Tariff Regulations. The entire project work which is taken into account in the impugned order, i.e. the transmission line and the sub-station along with the associated extension bays were completed within 19 months from the date of Investment Approval (IA), which is within the timeline of 32 months specified in Regulation 15 read with Appendix-II of the 2009 Tariff Regulations and as such it qualifies for additional RoE of 0.5%.



- b) Regulation 15(2) of 2009 Tariff Regulations provides for the additional RoE in respect of all projects. As per Regulation 3(31) of 2009 Tariff Regulations, “project” means a generating station or the transmission system as the case may be. Accordingly, in the case of any transmission system, the term “project” would include all transmission systems. As per Regulation 3(40) of 2009 Tariff Regulations, the sub-station associated with the transmission line is also a part of the transmission system. Hence, the cost of the sub-station also forms part of the transmission line and it should also be considered for the purpose of allowing RoE. Further, in terms of Regulation 4 of the 2009 Tariff Regulations, tariff in respect of a transmission system is determined either for the whole of the transmission system or the transmission line or sub-station.
- c) A combined reading of Regulation 15, Appendix II to the 2009 Tariff Regulations and other provisions of the 2009 Tariff Regulations, namely, the definition of the term “Project”, “Transmission System” and Regulation 4 of 2009 Tariff Regulations dealing with tariff determination, clearly establish that the petitioner can file petition for determination of a transmission line along with the associated sub-station and/or its expansion. The same would form part of a transmission project and additional RoE would be admissible to it in terms of proviso to Regulation 15 (2). In the circumstances the rejection of the additional RoE on the ground that the petitioner has not filed a petition for



the tariff determination separately for the transmission line and separately for the substation is erroneous. The petition filed for determination of tariff for the above mentioned transmission system with the associated sub-station bays extension is fully in accordance with the provisions of the 2009 Tariff Regulations. It is not necessary to consider separately the timeline applicable to a sub-station. The cost of the sub-station cannot be excluded from the consideration for the additional RoE in the circumstances mentioned above. The review petitioner submitted that there is an apparent error on the face of the record in not considering the additional RoE on the completion of the project within the qualifying timeline of 32 months, particularly when the Commission in Paragraphs 2 and 3 of the order has clearly held that the transmission line has been completed within a period of 19 months.

d) The order dated 26.12.2014 is in deviation from the earlier orders of the Commission in Petition No. 46/TT/2013 dated 17.2.2014 relating to Krishnapattinam UMPP Transmission System and in Petition No. 34/TT/2011 dated 14.2.2012 relating to Karcham-Wangtoo line. In both the orders, additional RoE was allowed for extension of sub-station.

7. During the hearing on 7.7.2015, learned counsel for the petitioner submitted that this is a transmission line from the generating station to the Nellore pooling station. A



bay had to be created for the transmission line. The construction of the transmission line is to be necessarily accompanied by the expansion of sub-station and the entire project is to be considered as the transmission project. All associated elements have to be completed for the transmission line. In such cases, the incentive for early completion of work applies to the transmission project as a whole and not merely to the transmission line.

8. The petitioner has relied on the Commission's order dated 14.2.2012 in Petition No. 34/TT/2011 relating to "Karcham- Wangtoo HEP" Scheme. In this regard, relevant paragraphs of the Commission's Order, dated 14.2.2012 in Petition No.34/TT/2011 is extracted hereunder:-

"27....The amount of equity has been considered for calculation of return of equity @16% i.e 15.5% plus 0.5% on the ground that the project is commissioned within the stipulated time period and qualifies for additional return on equity as per 2009 regulations"

The petitioner has also referred to the Commission's order dated 17.2.2014 in Petition No. 46/TT/2013.Relevant paragraph of Commission's Order, dated 17.2.2014 in Petition No.46/TT/2013 is extracted hereunder:-

"21..... The petitioner has submitted that the instant asset has been commissioned within the qualifying time schedule of 32 months stipulated in Appendix II of the 2009 Tariff Regulations and hence qualifies for additional return on equity of 0.5% as provided in Regulation 15. Accordingly, the petitioner has prayed for additional return on equity of 0.5%. TANGEDCO has submitted that the original approval was for two lines, viz. Krishnapatnam UMPP- Nellore and Krishnapatnam UMPP- Gooty 400 kV D/C quad lines whereas the revised scheme is for a single line of Nellore- Gooty 400 kV D/C quad line. There is reduction in the line length from 348 Kms. to 289 Kms. TANGEDCO has requested that the claim of the petitioner for additional return on equity should be seen in the light of the reduction in the scope of the work after revision of the scheme. We would like to clarify that Appendix II to the 2009 Tariff Regulations does not specify line length for claiming additional return on equity. As the transmission line has been commissioned

within the stipulated timeline of 32 months, the petitioner's claim for additional return on equity is allowed.....”

9. We have considered the submissions of the review petitioner. We are of the view that bay extension is part of the scheme consisting of transmission line and the bay. Project has been defined as the “transmission system” which means “a line or group of lines with or without associated sub-station and includes equipment associated with the transmission system and sub-stations”. Where a scheme has been approved consisting of a transmission line and bay extension in an existing sub-station, it will be considered as a project. If both the elements have been commissioned within the timeline given in the Appendix-II to the 2009 Tariff Regulations, then it will be eligible for additional RoE. The bay extension cannot be seen in isolation. Similar approach has been adopted by the Commission in Petition No. 34/TT/2011 and 46/TT/2013. In the instant case, the entire project including the bay extension has been commissioned within the time line specified in the Appendix-II to the 2009 Tariff Regulations and accordingly we are of the view that the instant asset is eligible for additional RoE.

Capital Cost

10. As regards the second issue, the Commission while considering the capital of the asset covered in Petition No. 102/TT/2013 held as under:-

“9.....The petitioner has claimed capital cost of ₹ 6761.50 lakh vide Management Certificate dated 5.12.2013 along with additional capital expenditure of ₹ 1457.28 lakh for 2013-14. Details of apportioned approved cost, capital cost as on the actual date of



commercial operation and estimated additional capital expenditure projected to be incurred for the assets covered in the instant petition are summarized below:-

(₹ In lakh)

Assets	Apportioned approved cost as per FR	Expenditure up to DOCO*	Projected additional capital expenditure	Total estimated Completion Cost
			2013-14	
Asset	9736.00	6761.50	1457.28	8218.77

*inclusive of initial spares of ₹47.00 lakh and ₹25.00 lakh for Transmission Line and Sub-station respectively which falls within ceiling limit.”

11. The review petitioner has submitted that the petition was filed on 26.4.2013 and at that time the project was not completed. The project was completed on 1.9.2013 and accordingly the actual capital cost along with the revised tariff forms was filed vide affidavit dated 5.3.2014. The petitioner has submitted that inadvertently, the revised management certificate amounting to ₹8379.89 lakh was not enclosed in the affidavit. The Commission has not taken into consideration the details submitted in the said affidavit. The petitioner has submitted the revised management certificate along with review petition. During the hearing on 7.7.2015, the learned counsel for the petitioner reiterated the same view as submitted in the review petition.

12. We have considered the submissions made by learned counsel for the petitioner and documents available on record. It is observed that earlier in Petition No. 102/TT/2012, the petitioner submitted tariff forms and Auditor Certificate dated 16.4.2013, for an estimated completion cost of ₹8218.77 lakh, based on anticipated commercial operation date i.e. 1.7.2013. Subsequently, the petitioner submitted the revised forms vide affidavit dated 3.3.2014 claiming a capital cost of ₹8379.89 lakh as



on 31.3.2014. However, the said affidavit was accompanied by a Management Certificate dated 5.12.2013 for an estimated expenditure of ₹8218.78 lakh. Since tariff claims were not supported by corresponding Management Certificate/Auditor Certificate, capital cost was limited to ₹8218.78 lakh for which the management Certificate was submitted.

13. The petitioner has submitted that it could not inadvertently submit the appropriate Management Certificate along with the affidavit dated 3.3.2014. The petitioner in the review petition has submitted a Management Certificate dated 6.1.2014 which showed that actual expenditure incurred as on 31.3.2014 as ₹8379.89 lakh.

14. We have considered the submissions of the petitioner. In the tariff forms submitted under affidavit dated 3.3.2014, the capital cost was shown as ₹8379.89 lakh. However, the petitioner had submitted a wrong Management Certificate along with the said affidavit and has now submitted a Management Certificate for an amount which tallies with the capital cost indicated in the tariff forms. Since the petitioner has incurred the expenditure of ₹8379.89 lakh, it has to be serviced in tariff and cannot be denied on account of submission of wrong Management Certificate on earlier occasion and the same deficiency has now been rectified. In our view, there is sufficient reason to review the impugned order on this account and allow the tariff on the basis of the capital cost of ₹8379.89 lakh. We are allowing review on this account based on the



peculiar facts of the case and this shall not be cited as a precedent. The petitioner is directed to be careful in submitting the relevant information in the tariff petitions in future and avoid reoccurrence of such instances.

15. In view of the above discussion, we allow the review petition on the counts of additional ROE and revised capital cost. The consequential effect of the order in the review petition shall be given through a separate order in Petition No. 102/TT/2013.

16. Review Petition No. 4/RP/2015 is disposed of in terms of the above.

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

