

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 7/TT/2011

Coram:

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

Date of Order : 13.10.2015

In the matter of:

Revision of the Commission's order dated 22.4.2013 in Petition No. 7/TT/2011 in the light of the judgment of the Appellate Tribunal for Electricity dated 24.9.2013 in Appeal Nos. 107 of 2012 and 43 of 2012

And in the matter of:

Power Grid Corporation of India Limited
"Saudamini", Plot No.2,
Sector-29, Gurgaon -122 001

.....**Petitioner**

Vs

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg,
Jaipur- 302 005
2. Ajmer Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
3. Jaipur Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
4. Jodhpur Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur
5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171 004



6. Punjab State Electricity Board
The Mall, Patiala-147 001
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana)-134 109
8. Power Development Department,
Govt. of Jammu and Kashmir,
Mini Secretariat, Jammu
9. Uttar Pradesh Power Corporation Limited,
(Formerly Uttar Pradesh State Electricity Board),
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 001
10. Delhi Transco Limited,
Shakti Sadan, Kotla Road,
New Delhi-110 002
11. BSES Yamuna Power Limited,
BSES Bhawan, Nehru Place,
New Delhi
12. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
New Delhi
13. North Delhi Power Limited,
Power Trading & Load Dispatch Group,
Cennet Building, Adjacent to 66/11kV Pitampura-3,
Grid Building, Near PP Jewellers,
Pitampura, New Delhi-110 034
14. Chandigarh Administration,
Sector-9, Chandigarh
15. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road, Dehradun
16. North Central Railway,
Allahabad



17. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110 002

....Respondents

ORDER

The Commission allowed the transmission tariff for 220/132 kV 100 MVA ICT-II at Sitarganj along with associated bays, vide order dated 16.3.2012 in Petition No. 117/2010. This asset was combined with 220/132 kV 100 MVA ICT-I at Pithoragarh along with associated bays and 220/132 kV 100 MVA ICT-II at Pithoragarh along with associated bays in the instant petition and tariff of these combined assets along with another asset was allowed vide order dated 22.4.2013. The tariff for the 220/132 kV 100 MVA ICT-II at Sitarganj along with associated bays was revised by the Commission vide its order dated 8.6.2015 (in Petition No. 117/2010) in the light of the judgment of the Appellate Tribunal for Electricity dated 24.9.2013 in Appeal No. 107 of 2012. This order in Petition No. 7/TT/2011 is being issued to revise the transmission charges of the Combined Asset-I and Combined Asset-II, as a consequence of the revision in Petition No. 117/2010.

Background of the case

2. The petitioner, Powergrid Corporation of India Limited (PGCIL) is entrusted with the implementation of System Strengthening Scheme in Uttarakhand in Northern Region (hereinafter referred to as "Scheme"). The scope of work covered under the project broadly includes following transmission lines and sub-stations:-



Transmission Lines

- (a) LILO of one circuit of Dhuliganga-Bareilly 400 kV D/C (charged at 220 kV) at Pithoragarh.
- (b) LILO of one circuit of Tanakpur-Bareilly 220 kV D/C at Sitarganj

Sub Stations

- (i) 220/132 kV Pithoragarh Sub-station (New)-6X33.3 MVA
- (ii) 220/132 kV Sitarganj Sub-station (New)- 2X100 MVA

3. PGCIL filed Petition No. 117/2010 seeking approval of transmission tariff, from date of commercial operation to 31.3.2014, for 220/132 kV D/C, 100 MVA ICT-II at Sitarganj along with associated bays under system strengthening in Uttaranchal in Northern Region. The Commission vide order dated 16.3.2012 has determined the tariff for asset covered in Petition No. 117/2010. While approving the transmission tariff, the Commission disallowed Interest During Construction (IDC) and Incidental Expenses During Construction (IEDC) for a period of 11 months. The relevant portion of the order is extracted below:-

"TREATMENT OF IDC AND IEDC

11. As per the investment approval, the transmission assets are scheduled to be commissioned within 24 months from the first Letter of Award for transformation package i.e. March 2005. Accordingly, the transmission assets were scheduled to be commissioned by April 2007. However, the transmission assets were declared under commercial operation on 1.8.2009 i.e. after 28 months of the scheduled date.

12. Time overrun of 28 months has been attributed to unprecedented rain/flood in the vicinity of sub-station, Civil Suits filed by PGCIL for land acquisition in Courts of Civil Judge/District Court, Writ petition in High Court and delay in supply of 220/132 kV transformer due to shortage of CRGO core lamination and condenser bushing in the international market.



13. Petitioner, vide affidavit dated 5.7.2010, has submitted that due to heavy rain/flood, no work could be carried out during July to October, 2006 and the foundation work 220 kV and 132 kV switchyard was completed in May, 2007. Thus, by May, 2007 only foundation work was completed, while March, 2007 was the scheduled commissioning date. Rain during monsoon months is a normal phenomenon and it cannot be considered as force-majeure. The work could have been planned accordingly to avoid delay in the project. Further, no documentary evidence was provided by the petitioner showing flood in the sub-station area during this period. Thus, keeping in view that there was no major hindrance to work, all the works except commissioning of ICT could have been completed by March, 2007.

14. Petitioner has also submitted that the work was stopped in the 132 kV switchyard, from March, 2007 to April, 2008, due to court orders. Some area of ICT foundation was also in the disputed land. The court gave permission to resume the work on 21.4.2008 and the erection and testing of the 220 kV and 145 kV equipments was taken up after getting the permission and was completed in February, 2009. However, the ICT was supplied in April, 2009 against the schedule of September, 2006. Subsequently, the erection of transformer was completed in June, 2009 and after CEA inspection the ICT was declared under commercial operation on 1.8.2009.

15. The petitioner has also submitted that there was Liquidated Damages clause (LD) in the LOA for supply of ICT. Few elements of the project are yet to be commissioned and hence the contract could not be closed. The Liquidated Damages, if any would be settled at the time of closing the contract and the same would be accounted for in the project cost.

16. The petitioner, vide affidavit dated 24.6.2011, has submitted that there was CRGO shortage during 2005 and 2006, due to which the manufacturer rescheduled the delivery of transformer. The second ICT was supplied in April, 2009 against the scheduled delivery of September, 2006. It was also submitted that the delay in commissioning of ICT-II is due to shortage of CRGO and bushings initially and later on due to court case, and hence the reasons for delay were beyond the control of the petitioner.

17. From the submissions of the petitioner and the documents enclosed with the petition, it has been noted that the supplier of the ICT i.e. M/s Transformers & Rectifiers (India) Ltd. had rescheduled the supply of second transformer to September, 2007. M/s Transformers & Rectifiers (India) Ltd., in its letter dated 2.5.2007, has stated that due to CRGO shortage, the supply of ICTs for Sitarganj had to be rescheduled to June and September, 2007. However, the petitioner has not submitted any documentary evidence justifying the reasons for delay in supply of ICT beyond September, 2007. Further, M/s Areva in its letter dated 3.10.2007, has also stated that the petitioner has not intimated the date of delivery of transformers at site inspite of repeated reminders. Therefore, it has been observed that supplier was willing to supply transformers in September, 2007, but there was delay on the part of PGCIL.



The petitioner has not given sufficient reasons for delay in supply of transformer beyond September, 2007.

18. As per the schedule, work was due to be completed by March, 2007. On account of the court case, the supply of ICT was rescheduled to September, 2007. However, there was no embargo on the petitioner to complete other works related to bay equipment, etc., by the schedule date. The petitioner obtained the permission from the court on 21.4.2008 for resumption of work. It was expected of the petitioner to complete the residual work as well as the commissioning of the ICT much earlier than the actual date of completion since the supplier was ready to supply ICT in September, 2007. Keeping in view the total erection time of 8 months as per the schedule, four months from May, 2008 to August, 2008 is considered adequate for completion of the rest of the work after permission was granted by the Court. Accordingly, the delay upto August, 2008 has been condoned and delay beyond August, 2008 i.e. September, 2008 to July, 2009 has not been condoned, since the petitioner has not given any justification for delay in starting the work before the institution of court case in March, 2007 and delay in supply of ICT beyond September, 2007, despite the readiness of M/s. Areva to supply the ICT. Accordingly, IDC and IEDC for 11 months from September, 2008 to July, 2009 months have not been allowed. The petitioner is at liberty to claim the liquidated damages from the supplier of ICT for delay in supply of the ICT by the OEM.

19. The date of Investment Approval is 13.7.2009 and the date of First Letter of Award is March, 2005. The petitioner has claimed the IDC and IEDC w.e.f. the date of Letter of Award. Accordingly, IDC and IEDC had been allowed from the date of First Letter of Award after deducting the period of 11 months on account of delay on the part of the petitioner.”

4. Aggrieved by the said order of the Commission, PGCIL filed Appeal No. 107 of 2012 before the Tribunal. PGCIL filed another appeal (Appeal No. 43 of 2011) against another order of the Commission dated 4.10.2011 in Petition No. 1/TT/2011. The Tribunal in a combined judgment dated 24.9.2013 in Appeal Nos. 107 of 2012 and 43 of 2011 disposed of the appeals with the following finding and directions:-

"23. Summary of our findings:

(a) The Central Commission has not considered the detailed reasons given by the Appellant for the delay that has occurred and did not provide basis for arriving at the figure of four months for completion of balance works.



(b) Perusal of the Commission's findings on the issue of time over-run in the Impugned Orders would also reveal that the Commission has dealt with only the delay in commissioning of ICTs. The Commission has not given any finding on delay in commissioning of the line. It has not discussed as to whether the delay in commissioning of the line could be or could not be attributed to the Appellant either wholly or partially. The grievance of the Appellant is that the Central Commission has wrongfully disallowed IDC and IEDC both for Transmission line and ICTs. Considering that both, the line as well as ICT could put to use simultaneously and accordingly could have attained commercial operation on the same day, it is necessary to know the findings of the Commission on this aspect.

24. In view of above, the impugned orders on this aspect are set aside remanding back to the Central Commission with the direction that it shall examine the reasons for the delay in commissioning the transmission line as well as the ICTs afresh, considering all the relevant particulars furnished by the Appellant and the Respondents and decide the matter by passing reasoned order uninfluenced by its earlier findings and the observations made by this Tribunal.

25. We make it clear that we have not expressed any opinion on the issue to be decided by the Central Commission. We advise the Central Commission to pass the order on this issue after hearing both the parties preferably within 3 months from the date of this judgment.

26. The Appeals are partly allowed to the extent indicated above."

5. As per direction of the Tribunal, the Commission vide order dated 8.6.2015 in Petition No. 117/2010 revised the transmission tariff for 220/132 kV 100 MVA ICT-II at Sitarganj along with associated bays. Since this asset was combined with 220/132 kV 100 MVA ICT-I at Pithoragarh along with associated bays and 220/132 kV 100 MVA ICT-II at Pithoragarh along with associated bays, for which the Commission allowed tariff allowed, vide order dated 22.4.2013, in the instant petition, the revision in Petition No. 117/2010 necessitates revision of tariff in the instant petition also.

6. In the Commission's order dated 22.4.2013 in Petition No. 7/TT/2011, tariff for the transmission assets has been worked as per details given hereinbelow:-



- a) Combined Asset-I:-It includes Asset-I and II (notional date of commercial operation: 1.9.2010) would be applicable for the period 1.9.2010 to 30.11.2010;
- b) Combined Asset-II: It includes Combined Asset-I and Asset-III (notional date of commercial operation: 1.12.2010) would be applicable for the period 1.12.2010 to 31.3.2014;
- c) Asset-IV: Date of commercial operation: 1.8.2010 and tariff would be applicable from 1.8.2010 to 31.3.2014.

7. Accordingly, implementation of the direction of the Tribunal and revision order in Petition No. 117/2010 necessitates consequent revision of the transmission charges for the Combined Asset-I and Combined Asset-II in instant petition.

Return on Equity (RoE)

8. The revised return on equity in respect of transmission assets is given hereunder:-

Particulars	Combined Asset-I From 1.9.2010 to 30.11.2010	Combined Asset-II			
		2010-11	2011-12	2012-13	2013-14
Opening Equity	1046.49	1567.10	1838.78	1912.01	1912.01
Addition due to Additional Capitalisation	144.98	271.68	73.23	0.00	0.00
Closing Equity	1191.47	1838.78	1912.01	1912.01	1912.01
Average Equity	1118.98	1702.94	1875.40	1912.01	1912.01
Return on Equity (Base Rate)	15.50%	15.50%	15.50%	15.50%	15.50%
Tax rate for the year 2008-09 (MAT)	11.33%	11.33%	11.33%	11.33%	11.33%
Rate of Return on Equity (Pre Tax)	17.481%	17.481%	17.481%	17.481%	17.481%
Return on Equity (Pre Tax)	48.90	99.23	327.84	334.24	334.24

Interest on Loan

9. The revised interest on loan in respect of the transmission assets is as per



details given hereunder:-

(₹ in lakh)

Particulars	Combined Asset-I From 1.9.2010 to 30.11.2010	Combined Asset-II			
		2010-11	2011-12	2012-13	2013-14
Gross Normative Loan	2441.80	3656.55	4290.47	4461.34	4461.34
Cumulative Repayment upto Previous Year	101.39	141.93	224.86	501.73	784.59
Net Loan-Opening	2340.41	3514.62	4065.62	3959.61	3676.75
Addition due to Additional Capitalisation	338.29	633.92	170.86	0.00	0.00
Repayment during the year	40.89	82.93	276.87	282.86	282.86
Net Loan-Closing	2637.81	4065.62	3959.61	3676.75	3393.89
Average Loan	2489.11	3790.12	4012.61	3818.18	3535.32
Weighted Average Rate of Interest on Loan	9.16%	9.03%	9.02%	9.01%	9.00%
Interest	57.01	114.03	361.96	344.00	318.11

Depreciation

10. Details of revised depreciation in respect of the transmission assets is as per details are as follows:-

(₹ in lakh)

Particulars	Combined Asset-I From 1.9.2010 to 30.11.2010	Combined Asset-II			
		2010-11	2011-12	2012-13	2013-14
Opening Gross Block	3488.29	5223.65	6129.25	6373.34	6373.34
Addition during 2009-14 due to Projected Additional Capitalisation	483.27	905.60	244.09	0.00	0.00
Closing Gross Block	3971.56	6129.25	6373.34	6373.34	6373.34
Average Gross Block	3729.92	5676.45	6251.29	6373.34	6373.34
Rate of Depreciation	4.39%	4.38%	4.43%	4.44%	4.44%
Depreciable Value	2909.45	4790.17	5305.99	5415.83	5415.83
Remaining Depreciable Value	2808.06	4648.24	5081.13	4914.10	4631.24
Depreciation	40.89	82.93	276.87	282.86	282.86



Interest on working capital

11. The revised interest on working capital in respect of transmission assets is given hereunder:-

(₹ in lakh)

Particulars	Combined Asset-I	Combined Asset-II			
	From 1.9.2010 to 30.11.2010	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	28.25	54.85	57.98	61.30	64.80
O & M expenses	15.70	30.47	32.21	34.06	36.00
Receivables	132.50	214.53	231.43	234.34	234.01
Total	176.45	299.85	321.62	329.69	334.82
Interest	4.85	10.99	35.38	36.27	36.83

Transmission Charges

12. The revised transmission charges in respect of transmission assets is as under:-

(₹ in lakh)

Particulars	Combined Asset-I	Combined Asset-II			
	From 1.9.2010 to 30.11.2010	2010-11	2011-12	2012-13	2013-14
Depreciation	40.89	82.93	276.87	282.86	282.86
Interest on Loan	57.01	114.03	361.96	344.00	318.11
Return on equity	48.90	99.23	327.84	334.24	334.24
Interest on Working Capital	4.85	10.99	35.38	36.27	36.83
O & M Expenses	47.09	121.88	386.52	408.66	432.03
Total	198.75	429.06	1388.57	1406.02	1404.07

13. The revised transmission charges allowed for 220/132 kV 100 MVA ICT-II at Sitarganj along with associated bays vide order dated 8.6.2015 in Petition No.117/2010 is withdrawn.



14. All other terms contained in order dated 22.4.2013 in Petition No. 7/TT/2011 remains unaltered.

sd/-

(A. K. Singhal)
Member

sd/-

(Gireesh B. Pradhan)
Chairperson

