

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**I.A.No. 43/2016**  
**in**  
**Petition No. 251/GT/2013**

**Coram:**  
**Shri Gireesh B. Pradhan, Chairperson**  
**Shri A.K.Singhal, Member**  
**Shri A.S. Bakshi, Member**  
**Dr. M.K. Iyer, Member**

**Date of Hearing: 06.10.2016**  
**Date of Order: 28.10.2016**

**In the matter of**

Interlocutory Application for clarification and directions

**And in the matter of**

Determination of tariff for generating stations and transmission systems of Bhakra-Beas Management Board for the period 2009-14 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009

**And**

**In the matter of**

Bhakhra-Beas Management Board  
Sector 19-B Madhya Marg,  
Chandigarh-160019

...Petitioner

Vs

1. Punjab State Power Corporation Limited,  
The Mall, Patiala-147 001
2. Haryana Vidyut Prasaran Nigam Limited,  
Shakti Bhawan, Sector 6,  
Chandigarh
3. Rajasthan Rajya Vidyut Prasaran Nigam Limited,  
Vidyut Bhawan, Janpath,  
Jaipur, Rajasthan-302 005
4. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Shimla 171 004,  
Himachal Pradesh
5. Union Territory of Chandigarh,  
Sector 9D, UT Secretariat  
Chandigarh

...Respondents



**Parties present:**

Shri M.G.Ramachandran, Advocate, BBMB  
Ms. Poorva Saigal, Advocate, BBMB

**ORDER**

This application has been filed by the petitioner, Bhakra Beas Management Board (BBMB) praying for the following relief(s):

- (a) *Clarify and declare that in order dated 21.3.2016 and also in the earlier order dated 12.11.2015 passed by the Hon'ble Commission in Petition No. 251/GT/2013, the servicing of the capital cost, incurring of capital expenditure, revenue expenditure etc and consideration of various tariff elements admissible has not been rejected by the Hon'ble Commission in relation to the determination of tariff for the tariff period 2009-14 under the Tariff Regulations, 2009; and*
- (b) *Pass such further order or orders as this Hon'ble Commission may deem fit and proper in the circumstances of the case.*

**Background**

2. The Commission by order dated 15.9.2011 in Petition No. 181/2011 (*suo motu*) held that the regulation and determination of tariff for generation and inter-State transmission of electricity by BBMB are vested in this Commission by virtue of the provisions of section 174 of the said Electricity Act, 2003. Accordingly, the petitioner was directed to file appropriate applications before this Commission for approval of tariff of its generating stations and transmission systems, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 for the period 2009-14. Aggrieved by the said order dated 15.9.2011, the petitioner filed Appeal No.183/2011 before the Appellate Tribunal for Electricity ('the Tribunal') challenging the jurisdiction of the Commission to determine the tariff of its generating stations and transmission systems. Thereafter, the Tribunal by its judgment dated 14.12.2012 dismissed the said appeal on merits and upheld the jurisdiction of this Commission to determine the tariff of the generating stations and transmission systems of petitioner. Against the said order dated 14.12.2012, the petitioner has filed Civil Appeal before the Hon'ble Supreme Court of India and the same is pending. Thereafter, the Commission by order dated 10.1.2013 in Petition No.181/2011 (*suo motu*) directed the petitioner to file the tariff petitions in accordance with the provisions of the 2009 Tariff Regulations, separately for the generating stations and for the



transmission systems. In compliance with the directions of the Commission, the petitioner had filed Petition No. 251/GT/2013 for approval of tariff of generating stations and transmission systems of the petitioner for the period 2009-14 in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009.

3. The Commission by order dated 12.11.2015 in Petition No. 251/GT/2013 had granted O&M expenses for the transmission elements as claimed by the petitioner for the period 2009-14 in terms of the 2009 Tariff Regulations. Subsequently, the Commission by order dated 21.3.2016 had allowed the actual O&M expenses incurred by the petitioner for 2009-14 for the generating stations of the petitioner as against the normative O&M expenses in terms of the 2009 Tariff Regulations. By the said order, BBMB was also directed to file the tariff petition for the period 2014-19 within two months from the date of the order. Aggrieved by the said order dated 12.11.2015, the petitioner had filed review petition (Petition No. 5/RP/2016) on certain issues and the same was disposed of by Commission's order dated 30.9.2016.

#### **Interlocutory Application**

4. The petitioner has filed this interlocutory application praying for the reliefs as stated in para 1 above and has submitted that in the orders dated 12.11.2015 and 21.3.2016, the Commission had not rejected any of the tariff elements other than O&M expenditure and in the peculiar circumstances of the case, directed that BBMB shall develop the requisite details in relation to fixed assets etc., and file a regular petition for determination of tariff of all the elements for the period 2014-19 in accordance with the 2014 Tariff Regulations. It has also submitted that a perusal of the above order would clearly show that the intention of passing the order was not to deprive BBMB of the tariff in regard to other tariff elements, but in the circumstances considered it appropriate to only determine the O&M expenses for the period 2009-14 leaving BBMB and the participating states to adjust the tariff of other elements as was existing before. The petitioner during the hearing has submitted that based on the Commission's orders dated 21.3.2016 and 12.11.2015 in Petition No.251/GT/2013, the Punjab Electricity Regulatory Commission (PSERC) vide order dated 27.7.2016, while determining the tariff of PSPCL, had proceeded on the basis that the Central Commission had rejected the tariff elements of generation and transmission



systems of BBMB, other than normative O&M expenses and has ordered the recovery of ₹336.69 crore from BBMB. The petitioner has submitted that PSERC has proceeded on a fundamentally wrong basis with regard to Commission's order dated 21.3.2016 and has stated that the matter is being taken up on appeal before the Tribunal. The learned counsel submitted that the petitioner would be subjected to serious prejudice if the above aspect with regard to the tariff is not clarified by the Commission.

### **Analysis and decision**

5. The Commission by orders dated 12.11.2015 and 21.3.2016 in Petition No. 251/GT/2013 determined the O&M expenses for the transmission elements and the generating stations of the petitioner for the period 2009-14. PSERC by its order dated 27.7.2016 has ordered for recovery of ₹336.69 crore from BBMB on the premise that this Commission had rejected all the tariff elements of the generation and transmission system of the petitioner, except normative O&M expenses. Since BBMB was deprived of the other tariff elements, it has filed the present application for clarification.

6. Though IA in the disposed of petition cannot be ordinarily entertained, except for correction of clerical errors, we feel it necessary to issue clarification as regards the orders dated 12.11.2015 and 21.3.2016 passed in Petition No. 251/GT/2013, in order to put the scope of our orders in proper perspective.

7. The Commission in order dated 12.11.2015 in Petition No. 251/GT/2013 while granting normative O&M expenses for the transmission elements covered in the petition filed by the petitioner for the period 2009-14, had observed as under:

*“18. Therefore, for the purpose of determination of the annual transmission charges, it is imperative that the petitioner furnish complete information as required under the provisions of the 2009 Tariff Regulations. It is however noticed that the petitioner vide affidavit dated 19.4.2012 in Petition No.200/TT/2013 while pointing out that it is not feasible to file tariff petition as per formats specified under the 2009 Tariff Regulations, except for O&M expenses and Interest on Working Capital, had submitted that the Commission can take the depreciated value of BBMB's transmission system in books of the participating States as the capital value. It had also submitted that BBMB is taking steps to get such capital value of the said transmission systems from the participating stations and would submit the same immediately upon being made available to BBMB. Despite these submissions, no visible steps appear to have been taken by the petitioner to submit the said information. In our view, the non furnishing of the information and reiteration of the submissions which have been rejected by both, the Commission and the Tribunal amounts to violation of the*



*findings of the Tribunal and the directions of the Commission. Therefore, BBMB is directed to file all necessary information regarding its transmission assets as per the applicable Tariff Regulations. Since the tariff period 2009-14 is already over, we direct BBMB to file necessary petition for determination of transmission tariff for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations. However, for the tariff period 2009-14, we grant the O&M expenses for the transmission elements covered in the petition for the period 2009-14, as stated in the subsequent paragraphs".*

8. Similarly, the Commission by order dated 21.3.2016 in Petition No. 251/GT/2013 while allowing the actual O&M expenses incurred by the petitioner in respect of the generating stations of the petitioner for the period 2009-14 had observed as under:

*"16. In our view, the non submission of the required information and the reiteration of the submissions which have been rejected by both, the Commission and the Tribunal, is contrary to the findings of the Tribunal and the directions of this Commission. Therefore, BBMB is directed to file all necessary information regarding its generating stations as per the applicable Tariff Regulations. Since the tariff period 2009-14 is already over, we direct BBMB to file necessary petition for determination of generation tariff for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations. However, for the tariff period 2009-14, we proceed to examine the O&M expenses for the generating stations of the petitioner for the period 2009-14, as stated in the subsequent paragraphs"*

9. From the observations as quoted above, it is evident that other components of tariff, except the normative O&M expenses, for the period 2009-14 was not determined by the Commission since BBMB could not submit the required information and that the tariff period 2009-14 had already come to a close. In other words, the tariff elements other than O&M expenses in respect of the generation and transmission systems of the petitioner were not rejected by this Commission. Accordingly, it is clarified that this Commission's orders dated 12.11.2015 and 21.3.2016 in Petition No. 251/GT/2013 only determined the O&M expenses of the generation and transmission of BBMB and did not decide that BBMB would not be entitled to consideration of tariff elements other than O&M expenses. The intention of the above orders passed by the Commission was not to deprive BBMB of tariff in regard to other tariff elements. Though not explicitly stated in the above orders, it was left to the BBMB and participating States to adjust the tariff of other elements as per the system that existed before.

10. The petitioner has been directed by order dated 21.3.2016 to file appropriate petition for determination of tariff of generation and transmission systems for the period 2014-19 in accordance with the provisions of the 2014 Tariff Regulations along with necessary information. The relevant portion of the order is extracted as under:



*“34. The submissions have been considered. In the absence of any specific and clear details / information being made available, the issues raised by the parties as above cannot be looked into, at this stage. The Commission in para 31 of this order has directed the petitioner to develop a fixed Asset Register and submit schedule of fixed Assets. However, keeping in view that tariff for the generating stations and inter-state transmission elements of the petitioner are required to be determined by the Commission for the period 2014-19 in terms of the 2014 Tariff Regulations, we deem it fit to issue the following directions:*

XXXX

11. It is observed that the petitioner has been granted extension of time till October, 2016 for compliance with the directions as contained in the order dated 21.3.2016. However, in partial compliance with the said directions, the petitioner vide affidavit dated 10.10.2016 has filed the Fixed Asset Register (as on 31.3.2014) and has submitted that other data and information in terms of the 2014 Tariff Regulations for determination of tariff for the period 2014-19 will be filed in due course. We direct the petitioner to do so accordingly.

12. With the above clarification, the prayer of the petitioner in the IA is disposed of.

-Sd/-  
(Dr. M.K.Iyer)  
Member

-Sd/-  
(A. S. Bakshi)  
Member

-Sd/-  
(A. K. Singhal)  
Member

-Sd/-  
(Gireesh B. Pradhan)  
Chairperson

