

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

PETITION NO. 35/RP/2016

Coram:

**Shri A.S. Bakshi, Member
Dr. M. K. Iyer, Member**

**Date of Hearing: 10.08.2016
Date of Order : 7.09.2016**

In the matter of:

Review of Commission's order dated 21.4.2016 in Petition No. 53/TT/2015 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

And in the Matter of:

Power Grid Corporation of India Ltd,
SAUDAMINI, Plot No. 2,
Sector-29, Gurgaon-122001 (Haryana)

.....Petitioner

Versus

1. Karnataka Power Transmission Corporation Limited,
Kaveri Bhawan, K. G. Road
Bangalore – 560009
2. Transmission Corporation of Andhra Pradesh Limited,
Vidyut Soudha, Hyderabad- 500082
3. Kerala State Electricity Board,
Vaidyuthi Bhavanam, Pattom,
Thiruvananthapuram - 695004
4. Tamil Nadu Generation and Distribution Corporation Limited,
NPKRR Maaligai, 800, Anna Salai,
Chennai - 600 002
5. Electricity Department, Government of Pondicherry,
Pondicherry - 605001



6. Eastern Power Distribution Company of Andhra Pradesh Limited,
P&T Colony, Seethmmadhara,
Vishakhapatnam, Andhra Pradesh
7. Southern Power Distribution Company of Andhra Pradesh Limited, (APSPDCL),
Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta,
Tirupati-517 501, Chittoor District, Andhra Pradesh
8. Central Power Distribution Company of Andhra Pradesh Limited, (APCPDCL),
Corporate Office, Mint Compound,
Hyderabad - 500 063, Andhra Pradesh
9. Northern Power Distribution Company of Andhra Pradesh Limited, (APNPDCL),
Opp. NIT Petrol Pump, Chaitanyapuri,
Kazipet, Warangal - 506 004, Andhra Pradesh
10. Bangalore Electricity Supply Company Ltd. (BESCOM),
Corporate Office, KR.Circle
Bangalore - 560001, Karnataka
11. Gulbarga Electricity Supply Company Ltd. (GESCOM)
Station Main Road, Gulbarga, Karnataka
12. Hubli Electricity Supply Company Ltd. (HESCOM)
Navanagar, PB Road,
Hubli, Karnataka
13. MESCOM Corporate Office,
Paradigm Plaza, AB Shetty Circle,
Mangalore – 575001, Karnataka
14. Chamundeswari Electricity Supply Corporation Ltd. (CESC),
927, L J Avenue, Ground Floor,
New Kantharaj Urs Road, Saraswatipuram,
MYSORE - 570 009, Karnataka
15. Electricity Department Government of Goa
Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa - 403 001

....Respondent(s)

The following were present:

For Petitioner: Shri Swapna Seshadri, Advocate, PGCIL
Shri S. K. Venkatesan, PGCIL
Shri Rakesh Prasad, PGCIL
Shri Jasbir Singh, PGCIL

For Respondents: None



ORDER

This review petition has been filed by Power Grid Corporation of India (PGCIL) seeking review of the order dated 21.4.2016 in Petition No. 53/TT/2015, wherein the tariff of 2009-14 period of Transmission System associated with Kudankulam Atomic Power Project in Southern Region was tried up under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter '2009 Tariff Regulations') and the tariff for 2014-19 tariff period was allowed for 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter '2014 Tariff Regulations').

Brief facts of the case:-

2. The following 18 assets under the Transmission System associated with Kudankulam Atomic Power Project in Southern Region was covered in order dated 21.4.2016 in Petition No.53/TT/2015:-

SI. No	Element
1	LILO of both circuits of Madurai-Trivandrum 400 kV D/C line at Thirunelveli
2	ICT-II and downstream system at Thirunelveli Sub-station
3	400 kV, 63MVAR bus reactor-II at Thirunelveli Sub-station
4	ICT-I and downstream system at Thirunelveli Sub-station
5	3 Nos. of 400 kV line reactors at Thirunelveli Sub-station
6	Kudankulam-Thirunelveli 400 kV D/C lines
7	3 rd 315 MVA ICT at Udumalpet Sub-station
8	3 rd 315 MVA ICT at Trivandrum Sub-station
9	Thirunelveli-Udumalpet D/C line along with bay extension at Thirunelveli and Udumalpet Sub-station
10	1x63 MVAR Reactor at Thirunelveli Sub-station
11	Thirunelveli-Edamon 400 kV D/C line (initially to be operated at 220 kV) with associated bays and equipment at Thirunelveli and Edamon (KSEB)
12	1 st Switchable Line reactor at Udumalpet Sub-station
13	2 nd Switchable Line reactor at Udumalpet Sub-station
14	2 Nos. Of 220kV Bays at Trivandrum Sub-station
15	Cochin (Muvattapuzha)-Trichur 400 kV D/C quad line
16	2x315MVAR Transformers at Cochin
17	01 No. 400 kV 63 MVAR line reactor at Cochin
18	01 No. 400 kV 63 MVAR line reactor at Cochin

3. The review petitioner has claimed the initial spares on the basis of the project cost as whole. However, the Commission taking into consideration the judgement of the Hon'ble Appellate Tribunal for Electricity in its judgement dated 28.11.2013 in Appeal No. 165 of 2012 considered the individual apportioned cost of the assets for the purpose of truing of 2009-14 tariff period and computation of tariff 2014-19 period, including the computation of the initial spares. The initial spares computed in case of all the assets, except Assets 6 and 11 were within the limit specified in Regulation 8 of the 2009 Tariff Regulations. Accordingly, initial spares in case of Assets 6 and 11, i.e. Kudankulam-Thirunelveli 400 kV D/C lines and Thirunelveli-Edamon 400 kV D/C line (initially to be operated at 220 kV) with associated bays and equipment at Thirunelveli and Edamon (KSEB) was restricted to 0.75% limit specified in the 2009 Tariff Regulations. The relevant portion of the said order is extracted hereunder:-

"20.We have considered the submission of TANGEDCO and KSEB. The petitioner has claimed the initial spares more than the norms specified in the 2009 Tariff Regulations in case of Assets 6 and 11. It is observed that the petitioner has computed the initial spares based on the overall cost of the assets. We have re-worked the initial spares based on the capital cost of individual asset and the same is depicted below:-

(₹ in lakh)

Particulars	Formula	Asset 6	Asset 11
Capital cost as on cut off date	(a)	29252.87	25541.74
Capital cost for computing initial spares	(b)	29252.87	25541.74
Initial Spares claimed	(c)	324.05	627.43
Ceiling limit as per Regulation 8 of 2009 regulations	(d)	0.75%	0.75%
Initial spares worked out	(e)= ((b-c)*(1/(1-d)- 1)	218.61	188.27
Excess initial spares claimed	(f)=(c)-(e)	105.44	439.16

21.The initial spares claimed by the petitioner for all the transmission assets except Asset-6 and Asset-11 are within the normative limit. Accordingly, the capital cost as on COD allowed after deducting the excess initial spares and considered for computation of tariff are as follows:-

Assets	Capital cost on COD after disallowing IEDC/IDC	Excess initial spares disallowed	Capital cost allowed as on COD for tariff determination purpose
Combined Asset 1,3,5,6	49083.39	105.44	48977.95
Combined Asset 1,3,5,6,9	74906.05	-	74906.05
Combined Asset 1,3,5,6,9 & 10	76069.05	-	76069.05
Combined Asset 2,4 & 7	6264.16	-	6264.16
Asset-8	1836.16	-	1836.16
Asset-11	25550.05	439.16	25110.89
Combined Asset 11, 12	25865.03 (25891.36-26.33)	-	25865.03
Combined Asset 11, 12 & 13	26478.32 (26510.69-32.37)	-	26478.32
Asset-14	313.63 (342.34-28.71)	-	313.63
Asset-15	28930.83	-	28930.83
Asset-16	6113.76	-	6113.76
Asset-17	689.65	-	689.65
Asset-18	552.14 (625.98-73.84)	-	552.14

4. Aggrieved by the said order, the review petitioner has filed the instant review petition seeking review of the order dated 21.4.2016 in Petition No. 53/TT/2015. The review petitioner has submitted that computation of initial spares on the basis of the capital cost of the individual assets is contrary to Regulation 8 of the 2009 Tariff Regulations and it is an error apparent on the face of record and requires to be rectified. The review petitioner has submitted the following reasons for seeking the review of order dated 21.4.2016:-

a) Initial spares of 0.75% was allowed for Assets 6 and 11 on the basis of the individual admissible capital cost upto cutoff date. In view of the same, the initial spares have been restricted to ₹218.61 lakh in case of Asset 6 and ₹188.27 lakh for Asset 11 by considering the completion cost up to cut-off date of the individual assets and not considering the transmission system in total.

Further, initial spares of tariff block 2004-09 which are left unutilized have not been set off against the excess spares claimed in 2009-14 tariff block.

b) Initial spares should be allowed as provide in Regulation 8 of the 2009 Tariff Regulations as a percentage of the original project cost. Initial spares incurred by the petitioner are 0.75% for transmission line and 2.5% for Sub-station of the total project cost but individually, there may be variation within individual assets.

c) The Commission has been allowing initial spares as a percentage of the total project cost/capital cost in all other cases and also adjusting the unutilized spares of one tariff block against excess spares claimed in the subsequent tariff block. The review petitioner has also referred to the Commission's order dated 25.4.2013 in Petition No. 33/TT/2011 in this regard.

d) It is a settled position that an aspect decided not in conformity with the relevant regulations is an error apparent on the face of record and needs to be reviewed/modified.

e) The review petitioner has also submitted that there is a delay of 13 days in filing the review petition as it took time to study the implication of the impugned order and because of the vacations in the month of June, 2016. The review petitioner has prayed for condoning the delay in filing and to admit the review petition.

5. The matter was heard on 10.8.2016. Learned counsel for the review petitioner reiterated the submissions made in the review petition. She submitted that computing the initial spares on the basis of the capital cost of individual assets is an

error apparent on record. She further submitted that the Commission in order dated 25.4.2013 in Petition No. 33/TT/2011 allowed initial spares as a percentage of the total capital cost of the project and also adjusted the unutilized spares of one tariff block against excess spares claimed in the subsequent tariff block.

6. We have considered the submissions of the petitioner regarding the delay in filing of the review petition and the delay in filing of the instant review petitioner is condoned.

7. The main contention of the review petitioner is that the initial spares have to be worked out on the basis of the project cost as a whole and not on the basis of the capital cost of the individual elements of the project. The review petitioner has also submitted that the Commission allowed initial spares, vide order dated 25.4.2013 in Petition No. 33/TT/2011, as a percentage of the total project capital cost and the Commission further adjusted the unutilized spares of one tariff block against excess spares claimed in the subsequent tariff block. The submissions made by the review petitioner are considered in the subsequent paragraphs.

8. The issue before us is whether initial spares are to be computed on the basis of total project cost or on the basis of cost of the individual elements. As per the 2009 Tariff Regulations, tariff of a transmission system may be determined for the whole of the transmission system or the transmission line or sub-station. As per the scheme of 2009 Tariff Regulations, the tariff can be claimed and allowed for individual elements of a transmission system. In this regard, we would like to examine some of the provisions of 2009 Tariff Regulations. Regulation 4 of the 2009 Tariff Regulations provides that the capital cost of the project may be broken

up into stages or units or transmission line or sub-station. The said regulation provides as under:-

"4. **Tariff determination.** (1) Tariff in respect of a generating station may be determined for the whole of the generating station or a stage or unit or block of the generating station, and tariff for the transmission system may be determined for the whole of the transmission system or the transmission line or sub-station.

(2) For the purpose of determination of tariff, the capital cost of the project may be broken up into stages and distinct units or blocks, transmission lines and sub-systems forming part of the project, if required:

Provided that where break-up of the capital cost of the project for different stages or units or blocks and transmission lines or sub-stations is not available and in case of on-going projects, the common facilities shall be apportioned on the basis of the installed capacity of the units, line length and number of bays:

Provided further that in relation to multi-purpose hydro schemes, with irrigation, flood control and power components, the capital cost chargeable to the power component of the scheme only shall be considered for determination of tariff."

9. Similarly, as per Regulation 5(2) of the 2009 Tariff Regulations a generating company or a transmission licensee is required to make an application for tariff as per the Forms given as per Appendix I to the 2009 Regulations. As per the Forms, a transmission licensee is required to claim tariff for stages or units or transmission line or sub-station as provided in Regulation 4 of the 2009 Tariff Regulations. The said Regulation provides as under:-

"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 30.3.2009 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. "

10. Regulation 8 of the 2009 Tariff Regulations provides as follows:-

“8. **Initial Spares.** Initial spares shall be capitalised as a percentage of the original project cost, subject to following ceiling norms:

- | | | | |
|-------|--|---|-------|
| (i) | Coal-based/lignite-fired thermal generating stations | - | 2.5% |
| (ii) | Gas Turbine/Combined Cycle thermal generating stations | - | 4.0% |
| (iii) | Hydro generating stations | - | 1.5% |
| (iv) | Transmission system | | |
| | (a) Transmission line | - | 0.75% |
| | (b) Transmission Sub-station | - | 2.5% |
| | (c) Series Compensation devices and HVDC Station | - | 3.5% |

Provided that where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost under first proviso to clause (2) of regulation 7, such norms shall apply to the exclusion of the norms specified herein.

11. The combined reading of the Regulations 4, 5 and 8 of the 2009 Tariff Regulations reveals that the review petitioner has the option to file the tariff petition for individual transmission element. In case the tariff is claimed for individual assets, the capital cost is also required to be considered individually and accordingly the initial spares should also be computed on the basis of the completion cost upto cut-off date of the individual asset. Further, the Regulation 8 of the 2009 Tariff Regulations provides ceiling limit of individual component for the transmission system such as sub-station, transmission lines, Series Compensation devices and HVDC Station etc. In case, the initial spares are allowed as claimed by the review petitioner for the project as whole, when the tariff is worked out individually, it would amount to cross subsidization of initial spares among the different elements. The regulations do not provide for such a treatment. Thus, the petitioner’s contention for considering the admissible initial spares for project as a whole is not tenable. In view of the above discussion, we are of the view that the initial spares has to be computed as a percentage of admitted capital cost of the individual assets of a transmission system.

12. We have computed the initial spares on the basis of the apportioned cost of the individual assets submitted by the petitioner. While doing so we have relied on the judgement of the Hon'ble Appellate Tribunal for Electricity dated 28.11.2013 in Appeal No. 165 of 2012, wherein the Commission's policy of considering the apportioned cost of the individual assets for computation of tariff was upheld. The Commission has adopted similar approach in its orders for working out the capital cost and computation of initial spares of individual elements.

13. As regards the review petitioner's contention that initial spares was allowed as a percentage of total project cost in order dated 25.4.2013 in Petition No. 33/TT/2011, it is observed that the Commission in order dated 28.5.2012 in Petition No.136/TT/2011 restricted the capital cost to the apportioned cost of the individual assets for computation of tariff. The review petitioner filed an appeal before the Hon'ble Appellate Tribunal for Electricity. The Tribunal upheld the Commission's order of 28.5.2011 by its judgement dated 28.11.2013 in Appeal No. 165 of 2012. As stated earlier, the Commission has adopted the said decision of the Tribunal in all subsequent applicable matters. The order relied upon by the review petitioner was issued prior to the judgement of the Tribunal. The issue raised by the review petitioner stands settled by the above judgement of the Tribunal, as such we are not inclined to accept the contention of the review petitioner.

14. In view of the above discussion, we do not find any error in computing initial spares of Assets 6 and 11 as a percentage of the approved apportioned cost. Accordingly, the review petition is not admitted.

15. This order disposes of Petition No. 35/RP/2016.

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

Sd/-
(A.S. Bakshi)
Member

