

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 17/RP/2015
In Petition No.37/TT/2011**

Coram

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

Date of order : 24.02.2017

In the matter of

Review of Commission's order dated 7.5.2015 in Petition No.37/TT/2011 regarding approval of transmission tariff for Transmission System associated with evacuation of power from Karcham Wangtoo Hydro Electric Project for 2009-14 tariff period.

And in the matter of:

Jaypee Powergrid Limited
'JA ' House, 63, Basant Lok,
Vasant Vihar,
New Delhi – 110057

.....**Petitioner**

Vs

1. Jaiprakash Power Venture Limited,
Sector-128, Noida-201 304,
Uttar Pradesh (India)
2. Himachal Sorang Power Limited,
C-35, Lane II, Sector-1, New Shimla (HP)
3. Government of Himachal Pradesh,
Through Secretary, Department of Power,
H.P. Secretariat, Armsdale Building,
Shimla-171 002



4. Himachal Pradesh State Electricity Board,
Vidyut Bhawan,
Shimla-171009,
Himachal Pradesh.
5. Satluj Jal Vidyut Nigam Limited,
Himfeb Building, New Shimla,
Shimla-171 009
6. Power Grid Corporation of India Limited,
"Saudamini", Plot No.-2, Sector-29,
Gurgaon-122 001, Haryana
7. POSOCO Limited,
B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi-110 016
8. Rajasthan Power Procurement Centre,
Vidyut Bhawan, Vidyut Marg,
Jaipur- 302 005
9. Ajmer Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur-302 024
10. Jaipur Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur-302 024
11. Jodhpur Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur-302 024
12. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171 004
13. Punjab State Electricity Board,
The Mall, Patiala-147 001
14. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana)-134 109



15. Power Development Department,
Government of Jammu and Kashmir,
Mini Secretariat, Jammu-180 001
16. UP Power Corporation Limited,
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226 001
17. Delhi Transco Limited,
Shakti Sadan, Kotla Road,
New Delhi-110 002
18. BSES Yamuna Power Limited,
BSES Bhawan, Nehru Place,
New Delhi-110 019
19. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
New Delhi-110 019
20. North Delhi Power Limited,
Power Trading & Load Dispatch Group,
Cennet Building, Adjacent to 66/11 kV Pitampura-3,
Grid Building, Near PP Jewellers,
Pitampura, New Delhi-110 034
21. Chandigarh Administration,
Sector-9, Chandigarh-160 009
22. Uttarakhand Power Corporation Limited,
UrjaBhawan, Kanwali Road,
Dehradun-248 001
23. North Central Railway,
Allahabad-211 003
24. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110 002

....Respondents

For petitioner : Shri Avinash Menon, Advocate, JPL
Shri Sanjiv K. Goel, JPL



For respondent : Shri Rajiv Sirvastava, Advocate UPPCL
Shri Vinod Kumar Yadav, Rajasthan Discoms
Shri B.L. Sharma, AVVNL

ORDER

The instant review petition has been filed by Jaypee Powergrid Limited seeking review of the order dated 7.5.2015 in Petition No. 37/TT/2011, wherein tariff for the LIL0 of both circuit of Baspa-Nathpa Jhakri 400 kV DC line (Triple Snowbird) at Karcham Wangtooo HEP (Asset I) and Karcham Wangtooo HEP-Abdullapur 400 kV DC Transmission Line (Quad Conductor) along with associated bays at Abdullapur Sub-station (Asset II) associated with evacuation of power from Karcham Wangtooo Hydro Electric Project for 2009-14 period was allowed.

2. The petitioner has sought review of the order dated 7.5.2015 on the following aspects:-

- (i) Disallowance of expenses amounting to ₹184 lakh towards formation of Company and increase in authorized capital;
- (ii) Disallowance of ₹908 lakh, including IDC and IEDC being 50% of the cost of the sub-station;
- (iii) Disallowance of the cost of reactors of ₹1648 lakh and pro-rata IDC and IEDC of ₹939.45 lakh;
- (iv) Discrepancies with respect to additional capital expenditure claimed and considered for computation of return on equity and interest on loan; and



- (v) Disallowance of licence fee, filing fee, monthly system operation charges paid to NRLDC/POSOCO, legal fee and the publication expenses.

3. During the hearing on 6.10.2015, the learned counsel for the review petitioner made the following submissions:-

- a) Expenses of ₹184.00 lakh incurred towards company formation and increase in authorized capital is incurred wholly and exclusively towards the project and the same was paid in cash and it should be allowed.
- b) The total cost of sub-station i.e. ₹1816.00 lakh represents exclusive cost for constructing 2 nos. of bays located at sub-station at Abdullapur end and it is not the cost of constructing 4 bays, as has been erroneously considered by the Commission. Therefore, full cost of the same should be allowed, rather than reducing it by fifty percent. The 2 bays at Wangtoo end (generating end) as shown in Form-2 are bays related equipment forming an integral part of reactor equipment and included in its cost. However, the same were inadvertently considered as 2 separate bays at Wangtoo in the tariff forms.
- c) With regard to the disallowance of ₹1,648.00 lakh towards cost of reactors and ₹939.45 lakh towards pro-rata IDC and IEDC of cost of reactors, during the proceedings of LTA with Northern Region constituents on 3.11.2006, the proposal for granting open access to the beneficiaries of Karcham Wangtoo HEP was discussed and it was clearly stipulated that associated bays would be part of the transmission system and all the cost towards the same would be borne by the transmission line developers. He further submitted that there



are errors apparent on the face of record and there are sufficient reasons for review of the order in this regard.

- d) IDC amounting to ₹63.59 lakh was disallowed on the ground that it pertains to the period after the date of commercial operation. The said amount pertains to the period prior to the date of commercial operation and it may be allowed; and
- e) Licence fee, filing fee, monthly system operation charges paid to NRLDC/POSOCO, legal fees and expenditure towards the publication of notice have not been allowed and the same may be allowed.

4. During the hearing, it was pointed out to the review petitioner that transmission license was granted vide order dated 17.8.2007 in Petition No. 44/2007 for LILO of 400 kV D/C Baspa-Nathpa Jhakri transmission line at Wangtoo, 400 kV D/C Karcham Wangtoo-Abdullapur transmission line (Quad conductor) and 400/200 kV Sub-station (Extension) ((PGCIL) at Abdullapur and the line reactors are not covered in the licence issued. It was further pointed out that the line reactors would form part of the generation assets and hence the petitioner should claim the cost of the line reactors as part of the generation assets. In response, the learned counsel for the review petitioner clarified that usually licence contains details of the major assets and does not give the details of assets like line reactors. The learned counsel for Jaiprakash Power Venture Limited (JVPL), Respondent No.1 submitted that a petition has already been filed claiming generation tariff and these line reactors are not included in the said petition and



as such cost of the line reactors may be allowed as part of transmission system in the instant petition.

Analysis and Decision

Disallowance of company formation expenses and authorized capital

5. The review petitioner has submitted that ₹184 lakh was incurred towards company formation expenses and fee for increase in authorized capital which were completely written off in the books of account in the financial year 2010-11. The review petitioner has submitted that these expenditure was not included in the capitalization as per accounting practice and the said expenses are not the part of capital cost of Assets I and II on the date of capitalization but the same were considered as cash outflow and were included capital cost claimed for tariff. The review petitioner has further submitted that as per tariff guidelines, the Commission is computing tariff based on the cash outflow and not on the amount actually capitalized in the books of accounts and accordingly the unpaid liabilities is not considered in the capital cost for the purpose of computing tariff. The review petitioner has requested, alternatively, to consider these expenses as one time reimbursement basis. The review petitioner has not submitted the breakup of company formation expenses and the increase in authorized capital.

6. We have considered the submissions of the review petitioner. The case of the review petitioner is that even though these expenditure on formation/incorporation of the company and increase in authorized capital do not form part of the capital cost as per the Accounting Standards, since these expenditure have resulted in capital outflow, the



petitioner has included the said expenditure in the capital cost while claiming tariff. Regulation 7 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2009 (2009 Tariff Regulations) provides as under:-

“7. Capital Cost

(1) Capital cost for a project shall include:

(a) The expenditure incurred or projected to be incurred, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan – (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the fund deployed, up to the date of commercial operation of the project, as admitted by the Commission, after prudence check.

(b) capitalised initial spares subject to the ceiling rates specified in regulation 8; and

(c) additional capital expenditure determined under regulation 9:

Provided that the assets forming part of the project, but not in use shall be taken out of the capital cost.

(2) The capital cost admitted by the Commission after prudence check shall form the basis for determination of tariff:

Provided that in case of the thermal generating station and the transmission system, prudence check of capital cost may be carried out based on the benchmark norms to be specified by the Commission from time to time:

Provided further that in cases where benchmark norms have not been specified, prudence check may include scrutiny of the reasonableness of the capital expenditure, financing plan, interest during construction, use of efficient technology, cost over-run and time over-run, and such other matters as may be considered appropriate by the Commission for determination of tariff.

xxx
xxx”

As per the above regulation, expenditure incurred or projected to be incurred upto the date of commercial operation of the project shall be included in the capital cost for the purpose of determination of tariff. Admittedly, the expenditure on account of



incorporation of the company and for increase in the authorized capital has not been capitalised in the books of account as per the Accounting Standards. As per Regulation 5(2) of the 2009 Tariff Regulations, the expenditure has to be certified by the Statutory Auditors. The Auditor's certificate does not certify that the expenditure on company formation and increase in authorized capital as part of the capital cost. Therefore, as per the Regulations, the said expenditure is not admissible for capitalisation. Merely because there is a cash outflow on account of certain expenditure, they by themselves do not qualify for capitalisation in terms of Regulation 7 of the 2009 Tariff Regulations. We do not find any error in the impugned order directing the expenditure on company formation and increase in authorized capital from being capitalised for the purpose of tariff.

Disallowance of 50% of the cost of the sub-station

7. The review petitioner claimed ₹1816 lakh towards cost of bays in the main petition, however ₹908 lakh, including IDC and IEDC being 50% of the cost of the sub-station was disallowed considering the amount of ₹1816 lakh is the cost of 4 bays. The relevant portion of the impugned order is extracted hereunder:-

“39. The petitioner has considered 4 bays (2 bays each at Abdullapur Sub-station and Wangtoo Sub-station) and 2 line reactors at KWHEP switchyard but the license granted to the petitioner included only two bays at Abdullapur Sub-station. Therefore, the cost of 2 bays and 2 line reactors shall be deducted from the capital cost of Asset-II. As per Form-5B, submitted by the petitioner vide affidavit dated 25.9.2014, the total cost of sub-station is ₹1816 lakh (including IDC & IEDC) excluding cost of compensating equipment (reactor and SVC). The cost of reactors is ₹1648 lakh (excluding IDC & IEDC). The petitioner has claimed 4 bays in substation, whereas licence was granted only for 2 bays. Therefore, half of total cost of sub-station amounting to ₹908 lakh (i.e. 50% of ₹1816 lakh) is being deducted from the capital cost as on the date of commercial operation of Asset-II. Further, the claim towards reactors amounting to ₹1648 lakh and the corresponding pro-rata IDC and IEDC of ₹939.45 lakh is also deducted from the capital cost as on date of



commercial operation of Asset-II. However, the petitioner is directed to submit the actual IDC and IEDC pertaining to disallowed reactors/bays at the time of truing-up.”

The review petitioner has submitted that ₹1816 lakh is exclusively the cost of two bays at Abdullapur Sub-station and not four bays as considered by the Commission in the impugned order. The two bays at Wangtoo end are bay related equipment forming part of the reactor equipment and their cost is not included in ₹1816 lakh as considered by the Commission. We have considered the submissions of the review petitioner. We accept the contention of the review petitioner and are inclined to consider the cost of two bays at Abdullapur Sub-station as given by the review petitioner. However, we are of the view that ₹1816 lakh for two bays at Abdullapur Sub-station are on a higher side and needs to be justified with reference to the benchmark capital cost or the capital cost of bays of similar configuration. The review petitioner is directed to submit detailed justification alongwith supporting documents for such high cost at the time of truing-up.

Disallowance of cost of reactors and pro-rata IDC and IEDC

8. The cost of two lines reactors at Karcham Wangtoo HEP (KWHEP) and pro-rata IDC and IEDC was disallowed as the said reactors were not explicitly mentioned in the licence granted to the review petitioner vide order dated 17.8.2007 in Petition No.44/2007. The review petitioner has submitted that the Commission in the said order changed the status of the transmission system from “dedicated transmission line” to “inter-State transmission system” as the line reactor at KWHEP was proposed to be deployed for controlling the voltage of KWHEP and other generators in the region. The review petitioner has submitted that the cost of the line reactors should form part of the



transmission system as they were part of the DPR of the dedicated transmission system of the KWHEP prepared by the PGCIL for the review petitioner. Further, CTU in its recommendation dated 23.4.2007 in Petition No. 44/2007 has indicated the line reactors (2 Nos.) at KWHEP within the scope of the transmission system. Since line reactors were not explicitly mentioned by the review petitioner in its application for transmission licence, the same were not specifically mentioned in the licence issued to the review petitioner. The review petitioner has submitted that the line reactors were executed as part of the transmission system for which licence was granted and the cost of these line reactors and associated equipments (situated at switchyard of KWHEP) have not been claimed as part of project cost in the tariff petition of KWHEP. The representative of the Respondent No.1, (JPVL) submitted that the cost of line reactors have not been included in the scope of the generation project. Noting the submission of the review petitioner and the Respondent No.1 and the inclusion of the line reactors in the scope of the transmission system in the recommendations of the CTU at the time of grant of transmission licence, we allow the review of the impugned order to the extent of disallowance of cost of the two line reactors and allow consideration of the line reactors as part of the transmission system. The claim of the review petitioner for tariff of the line reactor shall be considered at the time of truing up subject to the following:-

- a. The petitioner should establish on the basis of documentary proof that the line reactors and associated equipments have not been executed as part of the generation project and have not been included within the scope of the generation project;



b. The cost of the line reactor claimed by the petitioner appears to be on the higher side and accordingly, the petitioner is directed to submit the detailed justification for such high cost.

Disallowance of ₹63.59 lakh of IDC for Asset II

9. The review petitioner's claim of ₹63.59 lakh of IDC as additional capital expenditure during 2012-13 for Asset II was disallowed as it pertained to the period after the date of commercial operation. The relevant portion of the impugned order is extracted hereunder:-

"42. There is an increase of 64.16% in overall IDC vis-à-vis the original estimate. During the hearing on 13.11.2014, the petitioner was directed to submit the reasons for the increase in IDC and for claiming IDC and IEDC after the date of commercial operation. The petitioner, vide affidavit dated 10.12.2014, submitted that the IDC claimed by the petitioner as additional capital expenditure pertain to the period before the date of commercial operation. It is just that the claims towards them were raised and are being paid in the later period i.e. after commercial operation date. The petitioner further submitted that the increase in IDC is mainly attributable to two factors viz. early phasing of funds vis-à-vis the estimated phasing and time over-run. It is observed that the IDC claimed after date of commercial operation did not seem to be pertaining to the period before date of commercial operation. Had it been so, these would be forming part of the liabilities as on date of commercial operation. Accordingly, IDC after the date of commercial operation of Asset-II amounting ₹6.59 lakh is not allowed."

The review petitioner has submitted that ₹61.27 lakh of interest was in dispute with Indian Overseas Bank (IOB) and it was shown in the Balance Sheet for the year 2011-12, which was submitted to the Commission alongwith the main petition. The review petitioner submitted that the amount was not finalized at the time of finalisation of the accounts for 2011-12, as the matter was under negotiations with IOB. Once the matter was resolved, the IDC was paid on 28.9.2012. We have considered the submissions of the review petitioner. As per the review petitioner, the IDC claimed as additional capitalisation pertain to the period before the date of commercial operation but raised



and paid after the date of commercial operation. However, the liability statement submitted by the review petitioner does not reflect the same as mentioned in the impugned order. Accordingly, in para 45 of the impugned order, the review petitioner was directed to submit Form-6, Form-13, Form-14 and Form-14A separately for Asset-I and Asset-II after allocating the loan between Asset-I and Asset-II, at the time of filing the true-up petition. The review petitioner is directed to submit the said information at the time of truing up. The asset wise actual IDC to be allowed shall be finalized at the time of truing up. Accordingly, the ACE allowed in dated 7.5 2015 shall be revisited at that time.

10. The review petitioner, vide affidavit dated 19.12.2013, in the main petition has claimed the filing fee, publication fees, licence fee, RLDC charges and legal expenses. This aspect was overlooked in our order dated 7.5.2015 and it is an apparent error. The petitioner is eligible to recover the filing fee and the publication expenses directly from the beneficiaries as provided under Regulation 42 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "2009 Tariff Regulations"). Similarly, the petitioner is also eligible for license fee and RLDC fees and charges under Regulation 42A(1)(b) and 42A(1)(a), respectively, of the 2009 Tariff Regulations.

11. Delhi Transco Limited (DTL), Respondent No. 17, in its reply, vide affidavit dated 21.11.2015, has submitted that it is the State Transmission Utility and it is engaged in the wheeling of power and operate as a State Dispatch Centre. It is neither a necessary



nor a proper party and as such it should be excluded from the proceedings in the instant petition. DTL was arrayed as a respondent in the main petition and it did not raise this in the main petition. Further, it cannot raise this issue in a review petition filed by PGCIL. Anyhow, DTL may raise this issue at the time of truing up.

12. Review Petition No.17/RP/2015 is disposed of in terms of the above.

sd/-	sd/-	sd/-	sd/-
(Dr. M.K. Iyer) Member	(A.S. Bakshi) Member	(A.K. Singhal) Member	(Gireesh B. Pradhan) Chairperson

