

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 42/RP/2017

in

Petition No.218/TT/2016

Coram:

**Shri P.K. Pujari, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member**

Date of Order : 11.07.2018

In the matter of:

Petition for review and modification of the order dated 18.9.2017 in Petition No.218/TT/2016.

And in the matter of:

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

.....**Review Petitioner**

Vs

1. Madhya Pradesh Power Management Company Ltd.(MPPCL),
Shakti Bhawan, Rampur,
Jabalpur-482 008.
2. Maharashtra State Electricity Distribution Company Ltd.,
Hongkong Bank Building, 3rd Floor,
M.G. Road, Fort,
Mumbai-400 001.
3. Gujarat Urja Vikas Nigam Ltd.,
Sardar Patel Vidyut Bhawan,



Racecourse Road,
Vadadora - 390 007.

4. Electricity Department, Government of Goa,
Vidyut Bhawan, Panaji Near Mandvi Hotel,
Goa-403 001
5. Electricity Department,
Administration of Daman & Diu,
Daman-396 210.
6. Electricity Department,
Administration of Dadra Nagar Haveli,
U.T., Silvassa-396 230.
7. Chhattisgarh State Electricity Board,
P.O. Sunder Nagar, Dangania,
Raipur Chhattisgarh-492 013.
8. Madhya Pradesh Audyogik Kendra,
Vikas Nigam (Indore) Ltd., 3/54,
Press Complex, Agra-Bombay Road,
Indore- 452 008

.....Respondents

For Petitioner : Shri Sitesh Mukherjee, Advocate, PGCIL
Shri Deep Rao, PGCIL
Shri S.S. Rao, PGCIL

For Respondents : None

ORDER

This is a review petition filed by Power Grid Corporation of India Limited ("the Review Petitioner") seeking review of the order dated 18.9.2017 in Petition No. 218/TT/2016, wherein the transmission tariff for the Raipur Pooling Station-Wardha 765 kV D/C second line with bay extension and equipment at 765 kV Raipur Pooling Station



and Wardha Sub-station (“transmission assets”) under System Strengthening in Raipur-Wardha Corridor for IPP Projects in Chhattisgarh (IPP-F) was determined. The capital cost of the 765 kV D/C transmission line was restricted to the indicative cost of ₹3.90 Cr/km submitted by the CTU for the computation of POC charges. Further, the additional capital expenditure during 2017-18 and 2018-19 was restricted and only ₹2355.35 lakh was allowed as against the claim of ₹10541.33 lakh.

2. The Review Petitioner has prayed for modification of the impugned order by allowing the capital cost claimed and the IDC to be discharged after COD as additional capital expenditure. The prayers of the Review Petitioner are as under:-

(a) Modify the order under review in terms of the submissions made in this Review Petition.

(b) Allow the capital cost claimed by the Review Petitioner in Petition No. 218/TT/2016 and appropriately revise the amounts allowed in respect of the tariff parameters related to capital cost.

(c) Allow the projected IDC of ₹2582.71 lakh to be discharged after COD as additional capitalization.

3. The Review Petitioner has sought modification of the order dated 18.9.2017 on the following grounds:-

a) The Commission should have conducted prudence check of the capital cost claimed by the Review Petitioner as provided under Regulation 10(1) of the 2014 Tariff Regulations instead of pegging the capital cost to the indicative cost



submitted by the CTU. The capital cost of the instant assets was revised by its Board after going into the reasons for the increase in the capital cost. Further, opportunity was not given to submit the reasons for the high cost of the instant assets.

- b) Restricting the capital cost and disallowance of part of the additional capital expenditure is prejudicial to the interest of the Review Petitioner and it has impacted its cash flow.
- c) Restricting the capital cost of the instant assets without giving an opportunity to furnish relevant information has summarily prejudiced the Review Petitioner's rights which are contrary to law and sufficient reason for review.

4. The review petition was admitted vide order dated 8.3.2016 and the respondents were directed to file their reply. In response, Madhya Pradesh Power Management Company Limited (MPPMCL), Respondent No.1, has filed reply vide affidavit dated 27.11.2017.

5. MPPMCL has submitted that the Review Petitioner has been given ample opportunity to place complete facts and supporting documents before the Commission. The tariff was allowed after prudence check and the Commission directed the Review Petitioner to submit the additional information at the time of truing up. The Review Petitioner was directed to place facts on record which it failed to do. The Commission in



number of cases had observed that the cost estimates prepared by the Review Petitioner are not realistic.

6. The Review Petitioner has made the following submissions in support of its prayer for review of the impugned order:-

a. The Commission in the impugned order has approved the COD of the transmission assets as 31.3.2017. However, the capital cost of the 765 kV S/C transmission line was restricted to ₹3.90 Cr./km. This cost of ₹3.90 Cr./km is neither a benchmark provided under the provisions of the 2014 Tariff Regulations nor is the figure indicated in any other regulation. Rather, it is the indicative capital cost submitted by the Central Transmission Utility (“CTU”) for the purposes of computation of PoC Charges under the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (2010 Sharing Regulations). The Commission appears to have made this indicative cost as the benchmark, leading to a severe restriction in the capital cost of the 765 kV S/C transmission line in the instant transmission project to ₹139335.30 lakh against the claimed capital cost of ₹168468.68 lakh.

b. There is an error apparent on the face of the record since the Commission has passed the order in contravention of the express provisions and the underlying philosophy of the 2014 Tariff Regulations by determining transmission charges on the basis of indicative cost submitted by CTU for the purpose of



computation of PoC Charges. The Commission should have given the Reviewer Petitioner an opportunity to place complete facts and supporting documents instead of summarily disallowing the capital cost on grounds of inadequate information.

c. The figure of ₹3.90 Cr./km relied on by the Commission for computing the capital cost of the 765 kV D/C transmission line, purportedly based on the indicative cost submitted by CTU for the purpose of computation of PoC Charges, does not take into account myriad elements that are essential to the determination of transmission tariff and mandated by the 2014 Tariff Regulations, including: (a) Interest During Construction (“IDC”); (b) Incidental Expenditure During Construction (“IEDC”); (c) costs associated with resolving RoW issues; (d) tree and crop compensation; (e) land acquisition etc., and a variety of other factors that are inextricably linked with the capital cost incurred in establishing transmission assets. Determination of transmission tariff de hors the aforesaid essential elements by relying on the PoC Charges is gravely prejudicial to the Review Petitioner and contrary to the 2014 Tariff Regulations.

d. The justification in the impugned order for relying on the indicative cost submitted for purpose of computing PoC Charges is the absence of adequate reference data in respect of 765 kV D/C transmission lines for the purposes of comparison. In such a situation, Regulation 10(1) of the 2014 Tariff Regulations expressly outlines the principles that are to be adopted to conduct a prudence



check of capital cost, in the absence of sufficient benchmarking norms. However, in the impugned order no such prudence check was conducted in accordance with Regulation 10(1) of the 2014 Tariff Regulations despite the aforesaid express requirement to do so.

Analysis and Decision

7. We have considered the submissions made by the Review Petitioner and MPPMCL. The basic contention of the Review Petitioner is that the restriction of the capital cost to the indicative cost submitted by the CTU for the purpose of PoC computation and not conducting the prudence check as provided under 10(1) of the 2014 Tariff Regulations is an error apparent on face of record. The Review Petitioner has further contended that not allowing sufficient opportunity has prejudiced its interest. There is huge variation in the FR cost and the estimated completion cost and accordingly the Commission made the following observations in the impugned order regarding cost variation and stated the need for better methods to arrive at realistic cost estimates:-

“18. The Petitioner, in its original estimate, had envisaged the capital cost of the transmission lines as ₹1213.05 Cr (including IDC and IEDC on proportionate basis) i.e. ₹3.40 Cr per km., whereas the estimated completion cost is ₹4.71 Cr per km, which is much higher than the estimated cost. The Petitioner has attributed the cost variation to the higher prices discovered in the Open Competitive Bidding. MPPMCL has attributed the higher prices due to the poor procurement policy of the Petitioner.

19. We have considered the submissions of the petitioner and the objection raised by MPPMCL regarding cost variation of the instant assets. The variation in cost of the instant transmission line is on higher side. The Commission in number of cases, while allowing the cost variation earlier had observed that the cost estimates prepared by the Petitioner are not realistic and directed the Petitioner to adopt better methods to arrive at realistic cost estimates. The reasons given by the Petitioner for cost variation in case of the instant assets are general in nature and we are not satisfied with them. We are not inclined to allow the variation in cost of the instant transmission line at this stage. The



Petitioner is directed to submit the basis of arriving at the cost estimates along with the background computation and the efforts made to achieve the cost efficiencies while estimating the capital cost of the 765 kV D/C Raipur Pooling Station Wardha 765 kV second line. The Commission also likes to know the reasons recorded by the Board of the Directors while accepting the RCE. This will be reviewed at the time of true up.”

8. The Commission further observed that the capital cost will be reviewed at the time of truing up on submission of justification by the Review Petitioner for the variation in the capital cost. Accordingly, as an interim measure, the tariff was allowed on the basis of the indicative cost submitted by the CTU in the absence of any reference date for comparison. The relevant portion of the impugned order is extracted hereunder:-

“20. The population of the 765 kV D/C transmission lines is less in the network. Therefore, we do not have any reference data for the purpose of comparison. In absence of the required reference data, we have considered the indicative cost submitted by the Central Transmission Utility (CTU) for the purpose of Point of Connection (PoC) during the computation of PoC tariff in second quarter of 2017-18. The CTU has submitted the indicative cost as `3.90 Cr/km (including IDC and IEDC on proportionate basis) for the 765 kV D/C transmission line. At present, the capital cost of the transmission lines is restricted to `3.90 Cr/km on provisional basis taking into consideration the indicative cost submitted by CTU for the purpose of computation of PoC charges. As stated above, the capital cost of the instant transmission line would be reviewed at the time of truing up on receipt of the information as sought above. The capital cost considered now for computation of tariff is as under:

Element	Capital Cost	Per Unit
Sub Station(6 bays)	17377.0	28.96 per bay
Transmission lines (357.27 km)	139335.30	3.90 Cr per km
Total	156712.30	

9. The tariff was determined based on indicative cost as interim measure pending the justification of the Review Petitioner. Since, a final view on admissibility of capital cost is yet to be taken, the review of the same at this stage may not be appropriate.

10. As regards considering the indicative cost as reference data for the capital cost of 765 kV S/C transmission lines, the Review Petitioner has submitted that the



Commission should have followed the principles enshrined in Regulation 10(1) of the 2014 Tariff Regulations for prudence check of capital cost instead of pegging the capital cost of the transmission assets to the PoC Charges. The indicative cost was considered for the prudence check purpose due to absence of the reference data. In a similar case, the Commission considered the benchmark capital cost in order dated 18.3.2016 in Petition No. 184/TT/2013 in the absence of reference capital cost. The relevant portion of the impugned order is extracted hereunder:-

“36. Based on the information placed on record by the petitioner, the capital cost of the petitioner’s assets has been verified and determined by using benchmark capital cost model of the Commission. The petitioner in the Asset-I has claimed construction of 400 kV Bays at existing Bhiwani substation of Powergrid and similarly in Asset-II, the petitioner has claimed construction of 400 kV Bays at existing Dehgam substation of Powergrid. In view of this, wherever the petitioner has constructed the 400 kV bays at existing substation of Powergrid, we have considered indicative costs of Powergrid transmission system for prudence check.”

11. The above decision of the Commission was upheld by the Hon’ble Appellate Tribunal for Electricity in its judgement dated 14.11.2017 in Appeal No.226 of 2016. The relevant portion of the judgement is extracted hereunder:-

“16. After having a careful examination of all the arguments and submissions of the rival parties on various issues raised in the present Appeal, our observations are as follows:-

xxx
xxx

(iii) From the above, it is clear that the Appellant before the Central Commission has not provided the FR cost estimates related to the transmission assets in question. We are of the view that it is not possible having a project FR without separate estimates for the transmission assets even though the project is planned to be a combined generating and transmission project. The Central Commission in absence of such estimates was forced to apply prudence check based on the circumstances of the case and the nature of the assets for which the capital cost can be compared to either benchmark norms or indicative costs of similar projects as per the Tariff Regulations, 2009. The Central Commission has used benchmark norms where indicative costs were not available and



that too based on the submissions made by the Appellant. In case where model was wrongly used by the Appellant, the Central Commission applied correction to that for arriving at a fair cost of the assets. Wherever the indicative costs were available for comparison, the Central Commission has used them with appropriate escalations as required. The counsel for the Central Commission has submitted that the Appellant has submitted the benchmark norms model for some assets considering that it is beneficial to it, landed with submitting it with wrong assumptions. We agree to this argument of the Central Commission.”

12. In view of above, there is no error in respect of the consideration of indicative cost for the purpose of prudence check and admissibility of capital cost wherever the estimated cost or benchmark cost is not available.

13. In the present case, while considering the indicative cost, the Commission has considered the indicative cost submitted by the CTU for the purpose of computation of PoC charges. The CTU in the computation of PoC Charges does not take into account several elements that are essential for determination of transmission tariff as mandated by the 2014 Tariff Regulations, such as IDC, IEDC, costs associated with RoW issues, tree and crop compensation, land acquisition and a number of other factors that are inextricably linked with the capital cost incurred in establishing transmission assets. As the capital cost of transmission line comprises of such costs, the capital cost of this asset is required to be revised to the extent of inclusion of these costs.

14. We are of the view that review of the order needs to be allowed limited to the extent of inclusion of additional elements in the capital cost which was not considered while determining the tariff as the same was based on the indicative cost provided by CTU for computation of PoC charges. The Commission has sought certain information/documents in para 18 of the impugned order. Therefore, we direct the



Review Petitioner to file a fresh petition including all relevant information for determination of tariff of the instant assets in terms of the directions in this order.

15. Accordingly, the Review Petition No. 42/RP/2017 is disposed of.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(P.K. Pujari)
Chairperson

