

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 11/RP/2018

In

Petition No. 88/TT/2017

Coram:

**Shri P.K. Pujari, Chairman
Dr. M. K. Iyer, Member**

Date of Order : 12 .6.2019

In the matter of:

Review petition 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, seeking review of order dated 19.12.2017 in Petition No. 88/TT/2017.

And in the matter of:

Madhya Pradesh Power Transmission Company Limited,
Block No.2, Shakti Bhawan,
Rampur, Jabalpur- 482008.

.....**Petitioner**

Vs

1. Power Grid Corporation of India Limited,
Saudamini, Plot No. 2, Sector-29,
Near IFFCO Chowk,
Gurgaon-122 001.
2. Maharashtra State Electricity Transmission Co. Ltd. (MSETCL),
4th Floor, A wing Prakashganga E-Block,
Plot No. C-19 BKC Bandra (East), Mumbai
Maharashtra – 400051.
3. Gujarat Energy Transmission Corporation Ltd.,
Sardar Patel “Vidyut Bhawan”,
Race Course, Vadodara,
Gujrat-390007.



4. Chhattisgarh State Power Transmission Company Ltd., (CSPTCL),
SLDC Building,
CSEB, Daganiya,
Raipur, Chhattisgarh – 492013.
5. Rajasthan Rajya Vidhyut Prasaran Nigam Ltd. (RVPN),
Room No. 223, Vidhyut Bhawan, Janpath, Jaipur.
Rajasthan-302005.
6. Uttar Pradesh Power Corporation Limited,
“Shakti Bhawan”, 14 Ashok Marg,
Lucknow , UP-226001.

.....**Respondent**

Parties Present : Shri M.G. Ramachandran, Advocate, MPPTCL
Ms. Poorva Saigal, Advocate, MPPTCL
Ms. Anushree Badhan, Advocate, MPPTCL
Shri Shubham Arya, Advocate, MPPTCL
Shri S.R. Sharma, Law Officer, MPPTCL
Shri Amit Yadav, PGCIL

ORDER

The instant Review Petition is filed by Madhya Pradesh Power Transmission Company Limited (“MPPTCL”) for review and modification of the order dated 19.12.2017 in Petition No. 88/TT/2017. In the original petition, MPPTCL sought approval of transmission tariff of the eleven deemed ISTS lines, namely, (1) Asset-I 220 KV Malanpur-Auraiya Line; (2) Asset II:220 kV Mehgaon-Auraiya Line, (3) Asset III: 220 kV Badod-Kota Line; (4) Asset IV: 220 kV Badod- Modak Line, (5) Asset V:220 kV Kalmeshwar-Pandhurna Line, (6) Asset VI: 220 kV Kotmikala-Amarkantak-1 Line, (7) Asset VII: 220 kV Kotmikala-Amarkantak-2 Line., (8) Asset VIII: 400 kV Sardar Sarovar-Rajgarh-1 Line, (9) Asset IX:400 kV Sardar Sarovar-Rajgarh-2 Line, (10) Asset X:400



kV Seoni (MP)-Sarni (MP) Line and (11) Asset XI: 400 kV Seoni (MP)-Bhilai (Chattisgarh) line for 2014-19 period for inclusion in computation of Point of Connection, transmission charges and losses in accordance with the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations 2014 (hereinafter referred to as “2014 Tariff Regulations”) and Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses), Regulations, 2010.

2. The Commission vide its order dated 15.10.2015 in Petition No.217/TT/2013 had earlier approved the tariff in respect of nine inter-State transmission lines for the period from 1.7.2011 to 31.3.2014. However, in the impugned order dated 19.12.2017, while considering the tariff of the aforesaid eleven ISTS lines, the Commission did not grant all the components of tariff in respect of 7 lines which are mentioned at Srl. Nos. 3, 4, 5, 6, 7, 10 and 11 above but allowed only Interest on Working Capital (IWC) and Operation and Maintenance Expenses (O & M Expenses). The relevant extract of the impugned order is as under:-

“12. Thus, in effect, this is a normative tariff working methodology which shall be applied in those cases where the audited capital cost information is not available.

13. We observe that the petitioner company has not been able to provide the audited capital cost certificates. In line with the methodology explained in foregoing paragraphs, we now proceed to determine the tariff for the below stated transmission lines:

Sl. No.	Name of Line	COD	Line length (in Ckt-km)
1	220 kV Malanpur-Auraiya	23.11.1993	147.00
2	220 kV Mehgaon-Auraiya	23.11.1993	117.99
3	220 kV Badod-Kota	12.8.1977	103.92
4	220 kV Badod-Modak	27.12.1988	103.92
5	220 kV Kamleshwar-Pandhurna	1972	14.10
6	220 kV Kotmilkala-	March, 1975	39.31



	Amarkantak-Ckt.I		
7	220 kV Kotmilkala-Amarkantak-Ckt.II	July, 1979	39.31
8	400 kV Sardar Sarovar-Rajgarh-Ckt.I	20.10.2004	113.65
9	400 kV Sardar Sarovar-Rajgarh-Ckt.II	20.10.2004	113.65
10	400 kV Seoni (MP) – Sarni (MP)	25.09.1985	145.83
11	400 kV Seoni (MP) – Bhilai (Chhattisgarh)	25.09.1985	150.90

14. It is clear from the above table that the Assets at Sl. No. (3), (4), (5), (6), (7), (10) and (11) have already completed twenty five years. Therefore, as per Commission's methodology, only IWC and O & M shall be allowable for these assets. For other assets, i.e. assets at Sl. No. (1), (2), (8) and (9) in the table under para 13 above, transmission tariff has been worked out."

3 Aggrieved by the aforesaid observation of the Commission in the impugned order, the Review Petitioner has submitted that denial of all the components of transmission tariff in respect of the aforesaid 7 lines constitutes an error apparent on the face of record which requires modification.

4. In the present Review Petition, the Review Petitioner has sought the following reliefs:-

- a. Review the order dated 19.12.2017 passed in Petition No. 88/TT/2017 and modify the same by allowing all the components of tariff for 11 inter-State transmission lines connecting two States in terms of the 2010 Sharing Regulations read with 2014 Tariff Regulations.
- b. Tariff as per methodology approved and implemented vide order dated 15.10.2015 passed in Petition No. 217/TT/2013 for above assets may be considered for continuation of control period 2014-15 to 2018-19.
- c. Direct the amount so determined to be added to the POC Charges in future and the amount to be recovered and paid to the Review Petitioner.
- d. Pass any such further order or orders as the Hon'ble Commission may deem just and proper in the circumstances of the case.



5. The Review Petitioner has enumerated the following grounds for review of the impugned order:-

- (a) The impugned order was passed close to the end of the fourth year of the five year control period of 2014-19. The Review Petitioner was, however, permitted by the Commission to recover the tariff of the aforesaid assets at an amount that is much higher than the tariff now determined under the impugned order. The implementation of such lower tariff results in substantial financial adjustments and is causing grave prejudice to the Review Petitioner. If the revised tariff is given effect from 1.4.2014, the Review Petitioner will be seriously affected. The Commission has erred in giving effect to the new methodology after the expiry of substantial period in the control period and requested the Commission to continue the same methodology as was earlier adopted by it in order dated 15.10.2015 in Petition No 217/TT/2013. Accordingly, the instant assets should be governed by the earlier methodology adopted by the Commission since the PoC charges till date are being paid by beneficiaries and disbursed to the Review Petitioner on the basis of the order dated 15.10.2015.
- (b) The useful life of the transmission assets should be considered as 35 years and not 25 years. Accordingly, the tariff for the Assets IV, VII, X and XI should not be restricted only to IWC and O&M Expenses and rather all the elements of tariff ought to be considered.



(c) In Petition No. 217/TT/2013, for the period ending on 31.3.2014 capital cost of the transmission lines was determined by the Commission on normative basis as the audited capital cost data was not available. None of the beneficiaries in Petition No. 88/TT/2017 objected to the methodology adopted in Petition No. 217/TT/2013 for working out the capital cost and the Commission's observation that Yearly Transmission Charges ("YTC") emerging out of the existing methodology are on higher side and the same does not seem to be appropriate now at the end of the control period 2014-19.

6. The Review Petition was admitted vide order dated 12.6.2018 and notice of the same was served on the respondents.

7. The respondent, Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL) vide affidavit dated 26.6.2018 filed its reply/submissions to the Review Petition. RRVPNL has submitted that MPPTCL claimed transmission charges for 103.410 km. for 220 kV Badod-Modak transmission line. MPPTCL has constructed and charged 220 kV GSS Bhanpura between 220 kV GSS Badod and Madhya Pradesh border. As 220 kV GSS Bhanpura is constructed by MPPTCL between 220 kV GSS Badod and Madhya Pradesh border, YTC for 220 kV Badod-Modak line should be reduced as the inter-State section has been reduced. Accordingly, 28.30 km length of above line from 220 kV GSS Bhanpura upto MP-Rajasthan border is under the scope of MPPTCL and 16.5 km length of the line is under the jurisdiction of RRVPNL. RRVPNL has further



submitted that the Review Petitioner in its rejoinder dated 8.9.2017 in Petition No.88/TT/2017 has admitted the addition of 220 kV sub-Station at Bhanpura w.e.f. 6.9.2017 and that the distance from 220 kV Bhanpura Sub-station to MP-Rajasthan border is only 28.3 km. RRVPNL has submitted that accordingly transmission charges should be allowed only for 28.3 km, i.e. from 220 kV transmission line from Bhanpura Sub-station to MP-Rajasthan border and consequential changes should accordingly be made in the impugned order dated 19.12.2017.

8. In the course of hearing the Review Petition on 5.6.2018, learned counsel for the Review Petitioner submitted that the tariff as determined by the Commission in its order dated 15.10.2015 in Petition No. 217/TT/2013 be continued to be realized for the 2014-19 period. He contended that the lower tariff as approved by the Commission in the impugned order dated 19.12.2017, if given effect retrospectively from 1.4.2014, would cause difficulties in adjustments as the instant ISTS lines have not been included in the ARR approved by the State Commission. He insisted that the Commission should continue with the methodology as approved by it in order dated 15.10.2015 in Petition No. 217/TT/2013 for determination of tariff for the ISTS lines for 2011-14 period.

Analysis and Decision

9 We have heard the submissions of the Review Petitioner and respondent at length and have also perused the impugned order and documents on record. The Review Petitioner has sought review of the impugned order primarily on three grounds. They are discussed in the subsequent paragraphs.



10. The first contention of the Review Petitioner is that the impugned order was issued at the end of tariff control period and that the tariff allowed is lower than the tariff allowed earlier by the Commission in its order dated 15.10.2015 in Petition No.217/TT/2013 for the period ending 31.3.2014. It has argued that the lower tariff, if given effect from 1.4.2014 as per impugned order, would require substantial financial adjustments and the same would adversely affect the Review Petitioner. The Review Petitioner emphasized that the methodology for determination of tariff should remain the same as was adopted by it in order dated 15.10.2015 in Petition No. 217/TT/2013.

11. We have examined the submissions of the Review Petitioner. On perusal of the record, we find that the tariff of inter-State transmission lines owned by the States, for 2011-12 to 2013-14 period, was determined after taking into consideration the ARR approved by respective State Regulatory Commissions and on examination the same was found on higher side. We further observe that during 2014-19 tariff period, some of the States expressed their inability in furnishing the capital cost of the lines and in many cases, the information furnished was not uniform, resulting in divergence in working out of the tariff. On account of the aforesaid complexities, the Commission modified its earlier methodology. As regards the alleged delay in issuing the tariff order for the 2014-19 period, it is observed that there was delay on the part of the Review Petitioner in filing Petition No.88/TT/2017. The said petition was filed by the Review Petitioner on 24.3.2017, almost after three years of the start of the 2014-19 tariff period. Further, we are of the view that difficulties in implementation of an order cannot be a ground of



review of the impugned order. Accordingly, the petitioner's prayer for review on this ground is rejected.

12. The second contention of the Review Petitioner is that the Commission should consider the useful life of the transmission assets as 35 years and not 25 years and as such the transmission tariff of Assets-IV,VII,X and XI should be allowed with all the elements of tariff. We have carefully examined this contention of the Review Petitioner. We have, after due consideration of all the facts, held that the useful life of these transmission lines would be 25 years. Our finding was premised on the fact that the transmission lines which were commissioned way back, were treated as dedicated transmission lines associated with generating stations and the useful life of generating stations was considered as 25 years. Keeping these facts in mind, the life of old transmission lines was also considered and fixed as 25 years. In order to bring uniformity in working out the tariff of State-owned transmission lines carrying inter-State power, the Commission evolved the modified methodology with useful life as 25 years and the same has been applied uniformly on all the States. We, however, observe that the concept of useful life of the assets contemplated under this methodology is at variance with the Commission's Tariff Regulations, but these are a separate class of transmission assets and is being applied uniformly across all the States. For these reasons, we do not consider it appropriate to enhance the useful life of the transmission lines as 35 years as submitted by the Review Petitioner. Consequently, we do not find any rationale to allow all the components of tariff for the Assets-IV,VII,X and XI. Thus, we see no error apparent on record on this ground. Review of the impugned order on this ground is accordingly rejected.



13. The third and last contention of the Review Petitioner is that none of the beneficiaries in Petition No. 88/TT/2017 have objected to the methodology adopted by the Commission while passing the order dated 15.10.2015 in Petition No.217/TT/2013 for determining the capital cost of the instant assets. The Review Petitioner has contended that keeping in mind this fact, the Commission should adopt the methodology as was adopted by it earlier in order dated 15.10.2015 in Petition No.217/TT/2013. We have already explained in the previous paragraphs of this order regarding the need to resile from our earlier methodology and for switching over to the new methodology. Further, we do not agree with the contention of the Review Petitioner that just because there is no objection from the respondents regarding higher capital cost of the instant assets, the Commission should allow higher tariff based on such higher capital cost, by reviewing its order. By adopting the new methodology for tariff determination, Commission has attempted to strike a balance between consumers' interest and recovery of cost in a reasonable manner. Therefore, we do not find any merit in the contention of the Review Petitioner. Thus, review of the impugned order on this ground is not warranted and is accordingly rejected.

14. RRVPNL has submitted that the length of the 220 kV Badod-Modak line is only 28.30 km and not 103.92 km as considered in the impugned order. RRVPNL has further submitted that they had already made a submission to this effect in Petition No. 88/TT/2017 which was also admitted by the Review Petitioner in its rejoinder affidavit dated 8.9.2017 but the same was not considered by the Commission while passing the impugned order. As pointed out by RRVPNL, the length of inter-State portion of 220 kV



Badod-Modak line was 28.30 km, but was inadvertently considered as 103.92 km in the impugned order. We, therefore are of the view that the tariff allowed for 220 kV Badod-Modak line needs to be revised accordingly. Accordingly, the order dated 19.12.2017 in Petition No. 88/TT/2017 is amended to the extent it allows tariff for 220 kV Badod-Modak line considering its length as 28.30 km as follows:

15. Tariff for 220 kV Badod- Modak transmission line:

(Rs. In Lakhs)

	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	0.00	0.00	0.00	0.00	0.00
IWC	0.63	0.65	0.68	0.70	0.72
O & M Expenses	11.43	11.83	12.23	12.62	13.05
Total	12.06	12.48	12.90	13.32	13.77

16. Review Petition No. 11/RP/2018 is disposed of in terms of the above discussions.

Sd/-

(Dr. M. K. Iyer)
Member

Sd/-

(P.K. Pujari)
Chairperson

