

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 155/TT/2020

- Subject** : Petition for revision of transmission tariff of the 2001-04, 2004-09 and 2009-14 tariff periods, truing up of transmission tariff of the 2014-19 tariff period and determination of transmission tariff of 2019-24 tariff period for NLC-II Transmission System in the Southern Region.
- Date of Hearing** : 10.8.2020
- Coram** : Shri P.K Pujari, Chairman
Shri I.S Jha, Member
Shri Arun Goyal, Member
- Petitioner** : Power Grid Corporation of India Ltd. (PGCIL)
- Respondents** : KPTCL and 17 others
- Parties Present** : Ms. Ranjitha Ramachandran, Advocate, PGCIL
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri S.S. Raju, PGCIL
Shri A.K. Verma, PGCIL
Shri B. Dash, PGCIL

Record of Proceedings

The matter was heard through video conference.

2. The representative of the Petitioner submitted that the Commission vide order dated 18.1.2019 in Petition No. 121/2007 directed the Petitioner to submit its claim for revision of tariff in terms of APTEL's judgment dated 22.1.2007 in Appeal No. 81/2005 and judgement dated 13.6.2007 in Appeal No.139/2006 alongwith truing up of tariff of the 2014-19 period. Accordingly, the instant petition has been filed for revision of tariff of 2001-04, 2004-09 and 2009-14 tariff periods, truing up of tariff of the 2014-19 period and determination of tariff of 2019-24 period of NLC-II Transmission System in the Southern Region. He further submitted that the instant asset was put into commercial operation on 1.6.1994. The Commission vide order dated 22.2.2016 in Petition No. 539/TT/2014 trued up the tariff of the Combined Asset of the 2009-14 tariff period and determined the tariff of the 2014-19 period. The representative of the Petitioner submitted that Additional Capital Expenditure (ACE) allowed in Petition No. 539/TT/2014 was for replacement of obsolete equipment in Udumalpet, Madurai, Trichy and Salem Sub-stations which were executed between 1991 and 1994. He further submitted that the said sub-stations have completed their useful life of 25 years during 2014-19 tariff period. He submitted that ACE incurred in respect of the above Sub-stations is as per Regulation 14(3)(vii) and 14(3)(ix) of the 2014 Tariff Regulations. The Commission vide order dated 22.2.2016 in Petition No. 539/TT/2014 allowed ACE and de-



capitalization for the years 2016-17 and 2018-19. The representative of the Petitioner submitted that the balance amount of the approved ACE during 2014-19 tariff period has been carried forward to 2019-24 tariff period. There is ACE and de-capitalization during all five years of the 2019-24 tariff period. The ACE projected in 2019-24 tariff block is on account of replacement of defective equipment which are completing 25 years and removal of old and dilapidated buildings that have completed 30 years of useful life. He submitted that detailed justifications have been submitted vide affidavit dated 4.5.2020 in response to the Technical Validation letter. He further submitted that the Petitioner has filed rejoinder to the reply of TANGEDCO.

3. Learned counsel for TANGEDCO submitted that the revision of transmission tariff as prayed for by the Petitioner for 2001-04, 2004-09 and 2009-14 tariff periods should not be allowed as the tariff regulations of the Commission do not provide for retrospective revision of tariff. He further submitted that claim of the Petitioner is unjust, unreasonable and contrary to Hon'ble Supreme Court judgement dated 3.3.2009 in Civil Appeal No. 1110 of 2007 in the matter of U.P. Power Corporation Ltd. Vs. NTPC Ltd. (2009) 6 SCC 235. Referring to the said judgement, he submitted that it is unviable to calculate the ARR of the Distribution Companies retrospectively of two decades and bill the arrears of the same to the customers of the corresponding tariff blocks. The present consumers cannot be burdened with the liability of the past period and the same is untenable in law. He submitted that various parameters based on which ARR is determined and tariff for the consumers is determined keep changing and it is not possible to charge the tariff retrospectively. The consumers of one tariff block are different from that of the subsequent and earlier tariff block.

4. In response, the learned counsel for the Petitioner submitted that revision of tariff has been allowed by the Commission vide order dated 6.11.2019 in Petition Nos. 288/TT/2019, 300/TT/2019, 301/TT/2019 and 305/TT/2019. She further submitted that reliance placed by TANGEDCO on the said judgement of Hon'ble Supreme Court is based on a fact which was specific to that matter and that has no relevance to the facts of the present case. She submitted that the Petitioner filed the petition for revision of tariff for the years 2001-04 and 2004-09 in the year 2007 in terms of said judgements of APTEL in 2007. However, the Commission taking note of the pending Appeals on the issues of revision of tariff before the Hon'ble Supreme Court adjourned the proceedings in Petition No. 121/2007 sine die with liberty to revive the same as and when the Civil Appeals are disposed of by the Hon'ble Supreme Court. She submitted that the Hon'ble Supreme Court dismissed the Appeals filed against the said judgments of APTEL dated 22.1.2007 and 13.6.2007 vide judgement dated 10.4.2018 meaning thereby that aspect of revision of tariff attained finality only on 10.4.2018. Accordingly, the Commission vide order dated 18.1.2019 disposed of Petition No. 121/2007 filed by the Petitioner with liberty to raise the claim of revision of tariff for 2001-04, 2004-09 and 2009-14 tariff periods alongwith truing up of tariff for 2014-19 and determination of 2019-24 periods wherever possible. She submitted that the different stages of tariff as referred to in the said judgement of Hon'ble Supreme Court on which reliance is placed by TANGEDCO are not attracted in the present case as the Petitioner had come for revision of tariff in the year 2007 only but the procedural aspects as referred to above in the present case ended only in 2019.



5. Learned counsels for the Petitioner and TANGEDCO sought time to file written submissions.

6. The Commission directed the Petitioner and TANGEDCO to file their respective written submissions. The Petitioner was directed to submit the following information on affidavit with advance copy to the Respondents by 14.9.2020:-

- a) Soft copy (linked Excel workbook with formulas) of all the calculations for 2004-09 and 2009-14.
- b) As the Petitioner has claimed ACE of ₹11691.80 lakh during the 2019-24 period which is towards the fag end of useful life of the project. As per Regulation 33(7) of the 2019 Tariff Regulations, the Petitioner to submit the details of proposed capital expenditure along with justification and proposed life extension.
- c) The Petitioner has submitted that ACE/de-capitalization proposed under the head 'building and civil works' is on account of reconstruction of old and dilapidated buildings that have completed 30 years of useful life. The Petitioner is undertaking Renovation and Modernization (R&M) work and as such Detailed Project Report is required specifying complete scope, justification, cost-benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level and estimated completion cost as per Regulation 27(1) of the 2019 Tariff Regulations. The Petitioner shall also submit consent of the beneficiaries or the long-term customers, as the case may be as per Regulation 27(2) of the 2019 Tariff Regulations.

7. The Commission also directed the parties to comply with the above directions within the specified time and observed that no extension of time shall be granted.

8. Subject to the above, the Commission reserved order in the matter.

By order of the Commission

sd/-
(V. Sreenivas)
Dy. Chief (Law)

