

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 21/RP/2019
in Petition No. 150/TT/2018**

Coram:

**Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member**

Date of Order : 27.07.2020

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 and Section 114 read with Order 47 Rule 1 of Code of Civil Procedure, 1908 seeking review of order dated 9.8.2019 in Petition No. 150/TT/2018.

And in the matter of:

Damodar Valley Corporation
DVC Towers, VIP Road,
Kolkata -700 054

.... Review Petitioner

Vs

1. West Bengal State Electricity Distribution Company Limited
(Previously West Bengal State Electricity Board)
Vidyut Bhawan, Block `D-J`
Sector-11, Salt Lake City,
Kolkata-700 091
2. Jharkhand Bijlee Vitran Nigam Limited,
Engineers' Building, Dhurwa,
Ranchi-834004

...Respondents

Parties present

For Petitioner : Shri M.G. Ramachandran, Senior Advocate, DVC
Ms. Anushree Bardhan, Advocate, DVC
Shri Subrata Ghosal, DVC
Shri Samit Mandal, DVC
Shri Sandip Ghosh, DVC

For Respondents : None



ORDER

The instant Review Petition has been filed by Damodar Valley Corporation (DVC) for review of the order dated 9.8.2019 in Petition No. 150/TT/2018 vide which the Commission approved the tariff for transmission and distribution network of DVC for the tariff period 2014-19.

2. The Commission in the said order dated 9.8.2019 observed that COD of the existing transmission and distribution network of DVC will be 1.4.2004 and that after completion of 12 years i.e. from 1.4.2016, depreciable value of the asset will be spread over the balance useful life of the asset from the financial year 2016-17 onwards. Aggrieved with the above findings of the Commission regarding COD of the assets besides other findings, DVC has filed the instant Review Petition.

3. The Review Petitioner has submitted that the order dated 9.8.2019 has following errors apparent on the face of record:-

(a) The Commission observed in para 46 of the order that COD of the existing transmission and distribution network of DVC will be 1.4.2004 and that after completion of 12 years i.e. from 1.4.2016, depreciable value of the asset will be spread over the balance useful life of the asset from the financial year 2016-17 onwards.

(b) While computing the cumulative depreciation, the Commission has not adjusted the depreciation related to de-capitalized assets and also not adjusted the depreciation already recovered with regard to three non-ISTS lines, namely, (i) S/C LILO of 400 kV D/C Durgapur (PG)-Jamshedpur (PG) at DSTPS, (ii) S/C LILO of 400 V D/C Maithon (PG)-Ranchi (PG) at RTPS, and (iii) D/C 400 kV DSTPS-RTPS till 31.3.2017 amounting to ₹6530.18 lakh.

(c) While computing the interest on loan component, the adjustment in repayment on loan due to de-capitalization of assets, was added to the repayment of loan head instead of reducing the same.



(d) The cumulative repayment of loan with regard to three non-ISTS lines, namely, (i) S/C LILO of 400 kV D/C Durgapur (PG)-Jamshedpur (PG) at DSTPS, (ii) S/C LILO of 400 V D/C Maithon (PG)-Ranchi (PG) at RTPS, and (iii) D/C 400 kV DSTPS-RTPS till 31.3.2017 has not been taken into consideration while computing the interest on loan.

(e) The deduction of ₹101.25 lakh on account of asset disposal in the year 2015-16 and ₹121.12 lakh in the year 2016-17 (for assets already de-capitalized) while computing the additional capital expenditure to be allowed when such adjustments were already given effect to in the previous period.

(f) The Commission has not allowed the claim of DVC with regard to subsidiary activities and mega insurance.

(g) Common office expenses are not included in the final table at paragraph 70 of the order wherein the allowed transmission charges have been summarized.

(h) The Commission while considering the additional capital expenditure under the head: A-N Stage, has inadvertently mentioned that for the year 2014-15 to 2016-17 the claim of DVC is on projected basis whereas the same is on actual basis.

4. The matter was heard through Video Conference on 16.7.2020. Learned senior counsel for the Review Petitioner during the course of hearing submitted that DVC has already filed Petition No. 466/TT/2020 for truing up of the transmission tariff of the 2014-19 period, allowed vide order dated 9.8.2019 in Petition No. 150/TT/2018, and also for determination of tariff for the 2019-24 period in respect of the subject assets. The Petition No. 466/TT/2020 was heard by the Commission on 13.7.2020. He prayed that it will be just and appropriate if the instant Review Petition is tagged with Petition No.466/TT/2020 and both the petitions are listed together as the outcome of the Review Petition will have a direct bearing on the truing up and



determination of tariff as claimed in Petition No. 466/TT/2020. Learned senior counsel, however, contended that the order of the Commission in approving the deemed COD of the subject assets as 1.4.2004 and recovery of the balance depreciable value of the asset, after 12 years i.e. 1.4.2016, spread over the balance useful life of the asset from 2016-17 is contrary to the depreciation rate allowed to DVC in terms of Section 40 of the Damodar Valley Corporation Act, 1948 as upheld by the Hon'ble Supreme Court in the matter of Bhaskar Shrachi Alloys Ltd. V. Damodar Valley Corporation, (2018) 8 SCC 281. He contended that while computing the interest on loan, the Commission has incorrectly added repayment of loan due to 'de-capitalization of assets' to the 'cumulative repayment of loan' instead of reducing it. He further contended that Commission's order dated 9.8.2019 contains computational errors, errors on adjustment due to disposal of assets, issues related to additional O & M Expenses and common office expenses apportioned to the transmission and distribution network of DVC. He prayed that he may be granted leave to raise all the issues of the instant Review Petition at the time of final hearing of Petition No. 466/TT/2020.

5. We have considered the submissions of the Review Petitioner and are of the view that the Review Petitioner has made out a prima facie case on the issue of depreciation rate as per DVC Act. Insofar as the other issues raised by the DVC, we understand that they are consequential in nature and they shall be considered at the time of final hearing of the Review Petition. Accordingly, we admit the Review Petition. Issue notice to the Respondents.

6. We have also considered the other submission of the learned senior counsel of listing the present Review Petition with Petition No. 466/TT/2020. We agree with the



submissions of the learned counsel for the Review Petitioner that it will be appropriate to hear the present Review Petition with Petition No. 466/TT/2020 which has been filed by the Review Petitioner for truing up of tariff of the 2014-19 period and determination of tariff of the 2019-24 period for the subject assets. Accordingly, we direct the Registry of the Commission to list the instant Review Petition along with Petition No. 466/TT/2020 for final hearing.

7. The Review Petitioner is directed to serve a copy of the Review Petition on the Respondents by 7.8.2020 and the Respondents are directed to file their reply by 21.8.2020. The parties are directed to comply with above directions within the specified timeline and no extension of time shall be granted.

8. The next date of hearing will be intimated to the parties in due course of time.

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson

