

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition Nos. 38/RP/2018
in Petition No. 116/TT/2017**

Coram :

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

Date of Order: 09.01.2020

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, seeking review of order dated 20.7.2018 in Petition No. 116/TT/2017.

And in the matter of

Power Grid Corporation of India Limited
"Saudamani", Plot No. 2,
Sector-29, Gurgaon- 122 001

...Review Petitioner

Versus

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg,
Jaipur - 302005.
2. Ajmer Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur.
3. Jaipur Vidyut Vitran Nigam Limited
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur.



4. Jodhpur Vidyut Vitran Nigam Limited,
400 kV GSS Building (Ground Floor),
Ajmer Road, Heerapura, Jaipur.
5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla – 171004.
6. Punjab State Electricity Board,
(now Punjab State Power Corporation Limited)
Thermal Shed TIA, Near 22 Phatak,
Patiala – 147001.
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana) – 134109.
8. Power Development Department,
Government of Jammu & Kashmir,
Mini Secretariat, Jammu.
9. Uttar Pradesh Power Corporation Ltd.,
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg,
Lucknow – 226001.
10. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road,
New Delhi - 110002.
11. BSES Yamuna Power Ltd.,
BSES Bhawan, Nehru Place, New Delhi.
12. BSES Rajdhani Power Ltd.,
BSES Bhawan, Nehru Place, New Delhi.
13. Tata Power Delhi Distribution Limited,
33 kV Sub-station Building,
Hudson Lane, Kingsway Camp
New Delhi-110 009.
14. Chandigarh Administration,
Sector -9, Chandigarh.
15. Uttarakhand Power Corporation Ltd.,
Urja Bhawan, Kanwali Road,
Dehradun.



16. North Central Railway,
Allahabad.
17. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi – 110002.
18. Himachal Pradesh Power Transmission Corporation Limited
HIMFED Bhawan, Panjari,
Shimla – 171005

... Respondents

For Review Petitioner: Shri M.G Ramachandran, Senior Advocate, PGCIL
Shri Aryaman Saxena, Advocate, PGCIL
Shri Karan Arora, Advocate, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A.K Verma, PGCIL

For Respondents : Shri R. B. Sharma, Advocate, BRPL and BYPL
Shri Mohit Mudgal, Advocate, BRPL and BYPL
Ms. Sanya Sood, Advocate, BRPL and BYPL
Ms. Ritu Apurva, Advocate, HPPTCL
Shri I.P Singh, HPPTCL

ORDER

The instant review petition is filed by Power Grid Corporation of India Limited (hereinafter referred to as “PGCIL” or “Review Petitioner”) seeking review of the order dated 20.7.2018 in Petition No.116/TT/2017 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, wherein the tariff for Asset-I: 400 kV Lucknow-Kanpur (New) D/C transmission line alongwith associated bays at both end; Asset-II: Augmentation of transformation capacity at 400/220 kV Ballabgarh Sub-station by installing 500 MVA ICT-III; Asset-III: Augmentation of transformation capacity at 400/220 kV Ballabgarh Sub-station by installing 500



MVA ICT-IV; Asset-IV: Augmentation of transformation capacity by 500 MVA ICT(3rd) at 400/220kV GIS Gurgaon; Asset-V: Extension of GIS Parbati Pooling Station with 7X105 MVA ICT along with associated bays and 2 Nos. 220 kV bays under NRSS-XXXII in Northern Region (hereinafter referred to as “transmission assets”) was granted under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “2014 Tariff Regulations”)

Background

2. The tariff for the assets was granted vide order dated 20.7.2018 in Petition No.116/TT/2017. The Review Petitioner has submitted that there are apparent errors in order dated 20.7.2018 and has sought review of the said order on the following grounds:-

a. The recovery of tariff of the Assets II and III was erroneously permitted subject to the discontinuation of tariff allowed vide orders dated 28.1.2016 and 15.2.2016 in Petition Nos. 133/TT/2015 and 189/TT/2014 respectively and at the same time the Commission has de-capitalized the value of these transmission elements in the impugned order. As a result, the capital cost of the said 315 MVA ICTs has been deducted twice and the Review Petitioner is not recovering any charges for the new 500 MVA ICTs.

b. The Interest during Construction (“IDC”) was disallowed by computing the IDC from the date of infusion of fund and up to Scheduled Commercial Operation Date (“SCOD”) plus the period of delay condoned. This has led to the Review Petitioner being denied the recovery of IDC for the debt fund that has already been invested in the Project. The Review Petitioner was prudent in



the utilization of the loans by phasing out the infusion of funds. Phased manner of infusion of funds was undertaken in accordance with the progress of the Project and such phased infusion of funds leads to lesser total IDC in comparison to a situation wherein all funds are infused at the start of the Project. Such prudent phasing by the Review Petitioner leads to comparatively lesser burden on the beneficiaries.

c. The recovery of capital cost of Asset-V has been erroneously denied, which has been energised and kept as “Hot-standby” for maintaining the system’s reliability, as agreed upon by the beneficiaries and the date of commercial operation of the asset was approved as 31.12.2017 instead of 30.12.2017, which is prejudicial to the Review Petitioner.

3. The Review Petition was admitted vide order dated 7.2.2019 and notices were issued to the respondents to file their reply. BRPL, Respondent No. 12, and HPPTCL, Respondent No. 18, have filed their reply vide affidavits dated 27.2.2019 and 25.3.2019 respectively.

Submissions of the Review Petitioner

4. The Review Petitioner has made the following submissions in support of review of order dated 20.7.2018:

a. Assets II and III are Augmentation of transformer capacity at 400/220 kV Ballabgarh Sub-station by installing 500 MVA ICT-III and 500 MVA ICT-IV respectively in place of the existing 315 MVA ICTs. The scheme was agreed upon during the 31st SCM as recorded in the MOM dated 4.2.2013, the 28th Meeting of NRPC and the 25th meeting of TCC as recorded in the MOM dated



4.6.2013. This augmentation was envisaged to increase the transformation capacity of the Ballabgarh Sub-station, the importance of which was emphasized and advised by the Central Electricity Authority (“CEA”) and the same was agreed upon by the beneficiaries of the Project. The decision to replace the old 315 MVA ICTs was not taken unilaterally by the Review Petitioner, but done in the interest of the grid at the behest of the beneficiaries of the Project and the CEA. Accordingly, the old 315 MVA ICTs were replaced with new 500 MVA ICTs, which are Asset II and Asset III respectively. The old ICTs are to be used at Kaithal Sub-station, which has already been diverted and put into commercial operation and covered in Petition No. 148/TT/2017 without considering the cost of the ICT and the other 315 MVA ICT is to be diverted to Fatehabad Sub-station.

b. The tariff for the old 315 MVA ICTs, which have been replaced by the Asset II and III of the Project, are being recovered in terms of Commission’s Orders dated 28.1.2016 and 15.2.2016 in Petition Nos. 133/TT/2015 and 189/TT/2014 respectively. Therefore, the Review Petitioner did not claim the capital cost of the aforementioned 2 X 315 MVA ICTs in the Original Petition. The scope of the original petition was restricted to the determination of tariff of Assets II and III involving 500 MVA ICTs, which were being commissioned as per the requirements of the system and approved by CEA and the beneficiaries for the benefit of the system.

c. As per order dated 20.7.2018, the recovery of the tariff of Assets II and III is subject to discontinuation of tariff of the 315 MVA ICTs in Petition Nos. 133/TT/2015 and 189/TT/2014. Further, the 315 MVA ITCs were decapitalised,



leading to deduction of the capital cost twice. Since no O&M Expenses are claimed for Assets II and III in the tariff petition, the same was not capitalized as part of capital cost for the instant assets in the order dated 20.7.2018. Therefore, discontinuation of tariff of old replaced ICTs have led to no O&M Expenses for Assets II and III. This has resulted in under recovery of tariff for the Review Petitioner.

d. Combining the scope of transmission elements covered in Petition Nos. 133/TT/2015 and 189/TT/2014 with the original petition has resulted in the erroneous disallowance of the tariff for Assets II and III of the Project as well as deduction of the capital cost of the said 315 MVA ICTs from the gross block of the assets covered under the Project, whose tariff was to be determined in the Original Petition.

e. Any discontinuation in the tariffs being recovered cannot be done unilaterally by the Review Petitioner as the same can only be done by the Commission at the time of true-up. Therefore, the discontinuation of tariff can only happen at the time of true-up for the transmission elements covered in Petition Nos. 133/TT/2015 and 189/TT/2014 respectively.

f. Non-recovery of the tariff for any of the said assets will lead to the accumulation of interest over and above the transmission tariff, which will have to be paid in the form of carrying cost by the beneficiaries. Any decapitalization of the 315 MVA ICTs be undertaken only at the time of true-up of the respective petitions, namely, Petition Nos. 133/TT/2015 and 189/TT/2014. Therefore, the tariff of the replaced 315 MVA ICT should be continued between period of de-commissioning from old project and re-commissioning of the same at new



location.

g. The Review Petitioner had claimed IDC of ₹1507.32 lakh, ₹53.59 lakh, ₹33.61 lakh, ₹213.62 lakh and ₹1598.24 lakh in respect of Assets I, II, III, IV, and V respectively which is recoverable by the Review Petitioner. However, the same was disallowed. The IDC was disallowed on account of time over-run from the SCOD plus the period of delay not condoned as compared to the discharge of IDC by the Review Petitioner within a reasonable period (from the date of infusion) of ranging from 20 months to 35 months as against the Project schedule of 28 months. Considering schedule time to infuse the first fund as 3 months from the Investment Approval (IA), Fund infusion of 25 months should be allowed. And against the fund infusion schedule of 25 months, the fund was infused ranging from 20 months to 35 months. The Review Petitioner was prudent in the utilization of the loans by phasing out the infusion of funds. The date of infusion of funds alongwith the time for which the funds were infused is as follows.

Assets	Date of starting of fund	Actual COD	Time for which fund was infused
Asset-II	14.9.2015	5.6.2017	20 months 20 days
Asset-III	14.9.2015	3.7.2017	21 months 19 days
Asset-IV	14.9.2015	3.8.2017	22 months 19 days
Asset-V	23.1.2015	30.12.2017	35 months 7 days

h. A phased manner of infusion of funds was undertaken by the Review Petitioner in accordance with the progress of the Project and it leads to lesser total IDC in comparison to a situation wherein all funds are infused at the start of the Project. Such prudent phasing by the Review Petitioner leads to comparatively lesser burden on the beneficiaries. The Review Petitioner did not



infuse any funds until 14.9.2015 in case of Assets II, III and IV and until 23.1.2015 in case of Asset-V. As such, there is no possibility of inclusion of the time period of 28 months (from date of IA till date of infusion of fund) for the purposes of calculation of IDC. Further, as per clause 11(A)(2) of 2014 Tariff Regulations, IDC may be allowed after taking into account prudent phasing of fund.

i. The principle of calculating IDC necessitates the deployment of funds and merely seeking IA does not attract the IDC component in capital cost. The IA for the Project was accorded on 14.2.2014. Accordingly, the schedule of completion of work was 28 months and the SCOD was 13.6.2016. However, there was time over-run due to various reasons. The Commission overlooked the fact that even though the funds were infused in a phased manner, they have been infused for periods, which is well within the time period of 28 months, i.e., total time period for completion of work of the Project. Since the time for which fund is infused for Assets II, III and IV is within the project schedule of 28 months and schedule fund infusion period of 25 months, the entire IDC claimed for Assets II, III and IV should be allowed. Only in case of Asset V, the fund has been infused for a period of 35 months and 7 days, which is 10 months and 7 days in excess of the time period of 25 months of schedule fund infusion and the IDC limited to that excess period may be disallowed by the Commission on pro-rata basis.

j. Asset V was envisaged for Extension of GIS Parbati Pooling Station with 7X105 MVA ICT along with associated bays and 2 Nos. 220 kV bays. However, in order dated 20.7.2018, the capital cost of only 6 out of the 7 ICTs was



allowed. The Commission has overlooked the fact that during the 31st SCM as well as the 25th Meeting of NRPC, these proposals were discussed in detail with all the beneficiaries as well as the CEA and all the beneficiaries had agreed to the same. Further, the CEA, vide its certificate dated 17.7.2017 also granted approval for the energization of 7x105 MVA ICT at Parbati Pooling Station. The 7th 105 MVA ICT at Parbati Pooling Station achieved COD along with Asset-V and is kept as "*Hot standby*". It is used when either of the single phase unit in any of the banks is taken out from the service in case of failure/shutdown for maintaining the reliability of the system. Therefore, the intended purpose of this ICT is to ensure system strengthening and reliability. The RLDC certificate of 7th 105 MVA ICT is not available as the same is used when required and is kept as "*Hot standby*". Therefore, the Commission has erred in considering only 6 out of the 7 105 MVA ICTs as it has overlooked the design of the entire Asset V and the intended purpose behind the same, which was discussed and agreed upon by all the beneficiaries. The capital cost of the 7th 105 MVA ICT may be allowed. The technical requirement of spare ICT in case of single phase transformer is also provided in Regulation 43(2)(v) of Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2010.

k. Asset V of the Project was granted approval for energization by the CEA vide certificate dated 17.7.2017. Subsequently, the certificate dated 2.2.2018, issued by the Northern Regional Load Despatch Centre ("NRLDC"), records the successful first time charging of the Asset V on 28.12.2017. As per the scheme envisaged under the 2014 Tariff Regulations, the element has to be



continuously charged for 24 hours which has to be monitored by the Regional Load Despatch Centre (“RLDC”). There was no flow of power in the element because the downstream element, under the scope of the Himachal Pradesh Power Transmission Corporation Limited (“HPPTCL”) was not complete. Accordingly, the COD of Asset V was approved in terms of proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. However, the Commission approved the date of COD of Asset V as 31.12.2017 instead of 30.12.2017.

I. NRLDC certificate dated 2.2.2018 states that the Asset V of the Project was charged for the first time on 28.12.2017 and it was ready to be put to use after 24 hours of continuous operation. As such, had there been no delay in COD of the downstream element by HPPTCL, Asset V would have been in regular service on 30.12.2017. Accordingly, the COD of Asset V was claimed as 30.12.2017. However, COD was approved as 31.12.2017, as a result of which financial prejudice has been caused to the Review Petitioner. Therefore, the order dated 20.7.2018 may be modified and the COD of Asset V may be approved as 30.12.2017.

Submissions of BRPL

5. BRPL has made the following submissions:
 - a. There are definitive limits to the exercise of the power of review and the review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1. The review petition in effect is questioning the correctness of the order dated 20.7.2018 passed in Petition No. 116/TT/2017. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the later only



can be corrected by exercise of review jurisdiction. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. Thus, none of the grounds for the review of the order dated 20.7.2018 is justified. In this regard, the decision of the Hon'ble Supreme Court in a case Parsion Devi and others Vs. Sumitra Devi and others (1997) 8 SCC 715 laying out the above principles has been referred by BRPL.

b. Assets II and III are augmentation of transformer capacity at 400/220 kV Ballabgarh Sub-station by installation of 500 MVA ICT-III and 500 MVA ICT-IV respectively in place of the existing 315 MVA ICTs. Once the 315 MVA ICT is replaced by the 500 MVA ICT, the 315 MVA ICT is required to be de-capitalized at its book value in accordance with the 2014 Tariff Regulations. The Review Petitioner cannot be allowed the double benefits of the 500 MVA ICT as well as the 315 MVA ICT. Further, the replaced ICT is the property of the Review Petitioner and it is for him to use this elsewhere and how he uses is entirely his concern. The tariff of these assets has been determined strictly in accordance with the 2014 Tariff Regulations. Thus, there is no error apparent on the face of the record and the claim of the Review Petitioner is liable to be rejected.

c. The IDC was allowed in accordance with the 2014 Tariff Regulations. Thus, there is no error apparent on the face of the record and the claim of the Review Petitioner is liable to be rejected.

d. As regards denial of the recovery of capital cost of the 7th 105 MVA ICT forming part of the Asset-V, it is not in use and thus the capital cost of such an asset is required to be removed even when it is forming part of the project but the same is not in use in accordance with Regulation 9(6)(a) of the 2014 Tariff



Regulations. Therefore, there is no error apparent on the face of the record and the claim of the Review Petitioner is liable to be rejected.

Submissions of HPPTCL

6. The HPPTCL has made the following submissions:

a. HPPTCL has challenged the order dated 20.7.2018 in Petition No. 116/TT/2017 before the Appellate Tribunal for Electricity (APTEL) on the aspect of directing the HPPTCL to bear the transmission charges of Asset V from its COD till the COD of the downstream assets of HPPTCL.

b. The old 315 MVA ICTs have been diverted to Kaithal NRSS-XXXIV and Fatehbad and the cost is being recovered elsewhere, i.e., in Petitions No. 133/TT/2015 and 189/TT/2014. As such, the 315 MVA ICTs should be decapitalised in the present tariff. In similar cases, the Commission in orders dated 20.7.2015 and 27.11.2015 in Petition Nos. 163/TT/2013 and 26/TT/2014 respectively has held that the cost of the decapitalised ICT should not be allowed.

c. APTEL has also held that any asset not in service has to be decapitalised from the capital cost. Therefore, there is no merit in the contention of the Review Petitioner that any decision on the decapitalisation of the 315 MVA ICTS can only be taken at the time of true up of Petitions No. 133/TT/2015 and 189/TT/2014. The present decision can be followed as and when the above petitions come up for decision. Therefore, the tariff of the 315 MVA ICTs between the period of de-commissioning from old project and commissioning at



new location cannot be allowed. This is a commercial risk of the Review Petitioner and cannot be passed on to the beneficiaries.

d. The contention of the Review Petitioner that the IDC should not be disallowed to it, since it has infused the funds at a later date as compared to the IA, is without merit and cannot be accepted. Such a contention was raised by the Review Petitioner in Petition No. 26/RP/2017 before this Commission and has been rejected vide order dated 13.3.2019. Therefore, the date of infusion of funds is immaterial to compute and decide on the aspects of IDC. The only relevant date is the date of IA.

e. There is no merit in Review Petitioner's seeking a review on the issue of non-consideration of the cost of a 7th 105 MVA ICT which does not give any benefit to the beneficiaries and is only a stand by. It is a settled principle that tariff can only be allowed on the assets in use and not assets kept at stand by.

f. As regards levy of transmission charges of Asset V on HPPTCL, there is inconsistency in the stand of the Review Petitioner. On the one hand, the Review Petitioner has stated that the project was first charged on 28.12.2017 and will be ready after 24 hours which means 29.12.2017, on the other hand is seeking COD as 30.12.2017, which is questionable.

Analysis and Decision

7. We have considered the submissions of the Review Petitioner and the Respondents. The Review Petitioner has sought review on the grounds of alleged erroneous decapitalisation of the 315 MVA ICTs at Ballabgarh Sub-station, disallowance of IDC and disallowance of capital cost of 7th 105 MVA ICT under Asset



V, kept as “Hot Standby”. We consider these three issues in the following paragraphs.

Decapitalization of the 315 MVA ICTs, which are covered under the scope of Petition No. 133/TT/2015 and 189/TT/2014

8. The Review Petitioner has submitted that Assets II and III are for Augmentation of transformer capacity at 400/220 kV Ballabgarh Sub-station by installing 500 MVA ICT-III and 500 MVA ICT-IV in place of the existing 315 MVA ICTs. The decision to replace the old 315 MVA ICTs with new 500 MVA ICTs at Ballabgarh Sub-station was not taken unilaterally by the Review Petitioner and it was executed in the interest of the grid at the behest of the beneficiaries and with the approval of the CEA. The old 315 MVA ICTs are to be used at Kaithal Sub-station and Fatehabad Sub-station and their tariff is being recovered in terms of orders dated 28.1.2016 and 15.2.2016 in Petition Nos. 133/TT/2015 and 189/TT/2014 respectively. The Review Petitioner did not claim the capital cost of the aforementioned 2 X 315 MVA ICTs in the original petition. The scope of the original petition was restricted to the determination of tariff of 500 MVA ICTs namely Asset II and Asset III.

9. The Review Petitioner has submitted that the Commission has erroneously permitted recovery of tariff of the Assets II and III subject to the discontinuation of tariff allowed vide orders dated 28.1.2016 and 15.2.2016 in Petition Nos. 133/TT/2015 and 189/TT/2014 respectively and at the same time has de-capitalized the capital cost of the 315 MVA ICTs from the capital cost of the new 500 MVA ICTs, which has resulted in the deduction of the capital cost of the said 315 MVA ICTs twice and under recovery of charges of the new 500 MVA ICTs. The Review Petitioner has contended that the Commission’s decision of recovery of tariff of the



Assets II and III subject to the discontinuation of tariff allowed earlier and at the same time decapitalisation of the 315 MVA ICTs from the cost of 500 MVA ICTs is an apparent error which requires to be corrected.

10. BRPL has submitted that once the 315 MVA ICT is replaced by the 500 MVA ICT, the 315 MVA ICT is required to be de-capitalized at its book value in accordance with the 2014 Tariff Regulations. HPPTCL has submitted that the Review Petitioner cannot be allowed the double benefit of the 500 MVA ICT as well as the 315 MVA ICT. There is no merit in the contention of the Review Petitioner that any decision on the decapitalisation of the 315 MVA ICTS can only be taken at the time of true up of Petitions No. 133/TT/2015 and 189/TT/2014. The tariff of the 315 MVA ICTs between the period of de-commissioning from old project and commissioning at new location cannot be allowed and cannot be passed on to the beneficiaries.

11. We have considered the contentions of the parties. It is observed that the direction to discontinue tariff of 315 MVA ICT from the previous orders in Petition Nos. 133/TT/2015 and 189/TT/2014 besides de-capitalization of the gross value of 315 MVA ICT from the capital cost of the 500 MVA ICTs is an inadvertent error. Accordingly, we set aside the impugned order to the extent of withdrawing the direction for discontinuation of tariff allowed for the 315 MVA ICTs in orders in Petition Nos. 133/TT/2015 and 189/TT/2014.

12. The Commission's decision to decapitalise the gross value of 315 MVA ICTs from the cost of the new 500 MVA ICTs is in line with Regulation 9(6) of the 2014 Tariff Regulations which provides for excluding the capital cost of the assets forming part of the project but not in use. The methodology adopted by the Commission in



order dated 20.7.2018 was adopted by the Commission in orders dated 20.7.2015 and 27.11.2015 in Petition Nos.163/TT/2013 and 26/TT/2014 respectively. The relevant portions of the said orders are extracted hereunder.

Order dated 20.7.2015 in Petition No.163/TT/2013

“19. As per the 2009 Tariff Regulations, once the asset is replaced, it is taken out of service. Therefore, the asset has to be decapitalised and taken out of the gross block. Accordingly, the existing ICT at Moga Sub-station after being decapitalised shall be considered at its gross block less cumulative depreciation in another project.....”

Order dated 27.11.2015 in Petition No.26/TT/2014

“17. We have considered the submissions of the petitioner. The instant asset replaces the old assets under the augmentation of transformation capacity in Northern Region-Part A. The proviso to Regulation 7(1) of 2009 Tariff Regulations provides as follows:- “Provided that the assets forming part of the project, but not in use shall be taken out of the capital cost.” As per proviso to Regulation 7(1) of 2009 Tariff Regulations, the assets forming part of the project, but not in use should be taken out of the capital cost. Therefore, the cost of the existing 250 MVA ICTs at Moga Sub-station which is being replaced has to be de-capitalized by reducing the net value of replaced asset from the capital cost of new asset.”

Accordingly, there is no error in the Commission’s direction to decapitalise the gross value of 315 MVA ICTs from the cost of the new 500 MVA ICTs.

Disallowance of IDC

13. The Review Petitioner has submitted that as per the IA dated 14.2.2014, the instant assets were scheduled to be put into commercial operation within 28 months. The Review Petitioner has submitted that considering that it will take 3 months from the date of IA to infuse the first round of funds, 25 months should be allowed for infusion of funds and accordingly IDC should be allowed for 25 months. The Review Petitioner has submitted that in case of Assets II, III and IV funds were infused within a period of 25 months and hence IDC should be allowed as claimed for the said



assets and only in case of Asset V, funds were infused over a period of 35 months and 7 days, which is 10 months and 7 days in excess of 25 months, where IDC could be disallowed. BRPL has submitted that IDC was disallowed in accordance with the 2014 Tariff Regulations. HPPTCL has submitted that similar plea was made by the Review Petitioner in Petition No. 26/RP/2017 which was rejected vide order dated 13.3.2019. The date of infusion of funds is immaterial to compute and decide on the aspects of IDC and the only relevant date is the date of IA.

14. We have considered the submissions of the parties. The Commission in order dated 12.2.2019 in Review Petition No. 26/RP/2018 in Petition No. 222/TT/2016, has addressed similar issue and has held as follows.

“10.In our view, time over-run is considered with reference to the timeline specified in the Investment Approval and not from the date of infusion of funds. Admittedly the Review Petitioner has infused the funds after the expiry of the period of execution specified in the Investment Approval. By delaying the infusion of funds, the Review Petitioner cannot extend the period of execution of the project specified in the Investment Approval. Since the project has been executed in the extended timeline beyond the period of execution specified in the Investment Approval, the Review Petitioner has been correctly denied the IDC and IEDC for the period of time over-run not condoned. No error apparent has been shown by the Review Petitioner in the treatment of IDC and IEDC in the instant case. We find no reason to review our order on this score and therefore reject review of the order on this ground as well.”

15. The Commission has allowed IDC in accordance with the provisions of 2014 Tariff Regulations and methodology adopted by the Commission in other cases. We are of the view that there is no apparent error on the issue of IDC in order dated 20.7.2018. Accordingly, review on this ground is rejected.

Disallowance of the capital cost of 7th 105 MVA ICT with respect to Asset V

16. The Review Petitioner has submitted that disallowance of the capital cost of 7th ICT with respect to Asset V, i.e. Extension of GIS Parbati Pooling Station with 7X105 MVA ICT along with associated bays and 2 Nos. 220 kV bays, which is kept as "Hot



Standby", and approval of COD of the Asset V, as 31.12.2017 instead of 30.12.2017 are apparent errors which should be remedied. The Review Petitioner has submitted that the ICT has been energised and kept as "Hot-standby" for maintaining the system's reliability, as agreed upon by the beneficiaries. The Review Petitioner has contended that the same was agreed in the 31st SCM dated 2.1.2013, 28th Meeting of NRPC held on 26.4.2013, and the 25th meeting of TCC dated 25.4.2013. The Review Petitioner has further submitted that NRLDC certificate dated 2.2.2018 also states that the Asset V was charged for the first time on 28.12.2017 and it was ready to be put to use after 24 hours of continuous operation. As such, if the downstream elements of HPPTCL were ready then Asset V would have been in regular service from 30.12.2017 and hence the COD of Asset V should have been approved as 30.12.2017. However, the COD of Asset V was erroneously approved as 31.12.2017, which should be corrected.

17. BRPL has submitted that Asset V is not in use and thus the capital cost of such an asset should not be considered for grant of tariff as provided under Regulation 9(6)(a) of the 2014 Tariff Regulations. HPPTCL has submitted that there is no merit in Review Petitioner's contention as the said asset does not give any benefit to the beneficiaries and is only a standby. It is a settled principle that tariff can only be allowed on the assets in use and not assets kept at stand by. HPPTCL has further submitted that the Review Petitioner has stated that the Asset was first charged on 28.12.2017 and will be ready after 24 hours which means 29.12.2017. However, the Review Petitioner is seeking COD as 30.12.2017.

18. We have considered the submissions of the parties. The Review Petitioner has submitted that the 7th 105 MVA ICT which is part of Asset V was kept as "Hot



Standby” condition and it is used when a single phase unit is taken out of service due to failure or shut-down for maintaining the reliability of the system. The ICT is intended to ensure system strengthening and reliability. It is further observed that the beneficiaries of the Northern Region have agreed to keep the ICT in the “Hot Standby” condition to meet any contingency. Moreover, Regulation 43(2)(v) of the Technical Standards for Construction of Electrical Plants and Electrical Lines, 2010 of the CEA also provides for a spare ICT for a sub-station or a switchyard to replace any unit whenever required. Taking into consideration the technical requirements and consent of the beneficiaries of the Northern Region to have an ICT in the “Hot Standby” condition to meet any contingency, we are of the view that disallowing the capital cost of the 7th 105 MVA ICT is error and that the capital cost of the ICT should be allowed. Accordingly, the order dated 20.7.2018 is modified to the extent of allowing the capital cost of the 7th 105 MVA ICT of Asset V and the same will be given effect at the time of truing up of the tariff 2014-19 tariff period.

19. As regards the Review Petitioner’s contention that the COD of Asset V should be 30.12.2017 instead of 31.12.2017, it is observed that the Review Petitioner vide affidavit dated 10.1.2018, in para 5 claimed the COD of the Asset-V as 31.12.2017 under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations as the downstream assets of HPPTCL were not ready. Accordingly, considering the submissions of the Review Petitioner and the information on record, the Commission in the original Petition No. 116/TT/2017, approved the COD of Asset-V as 31.12.2017. The relevant extract of the order dated 20.7.2018 are reproduced hereunder:

“14. As per the said provision, if a transmission asset is prevented from being put into regular service for reasons not attributable to a transmission licensee, but due to



delay in COD of upstream or downstream assets, the transmission licensee can approach the Commission for approval of COD of the transmission asset. In the instant case, the petitioner has submitted that it was ready with Asset-V on 31.12.2017 and in support has submitted the Energisation Certificate dated 17.7.2017 issued by CEA under Regulation 43 of the CEA (Measures relating to safety and Electric Supply) Regulations, 2010. The petitioner has further submitted the letter dated 2.2.2018 of NRLDC regarding the first time charging of Extension of GIS Parbati Pooling Station with 7x105 MVA ICT alongwith associated bays and 2 Nos. 220 kV bays. The petitioner has also submitted the certificate from its CMD certifying that the asset conforms to the relevant Grid Standard and Grid Code and are capable of operation to their full capacity with effect from 31.12.2017 as required under Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010. The petitioner has submitted that it is ready with Asset-V but is prevented from being put into regular use as the downstream assets under the scope of HPPTCL were not ready. Accordingly, the petitioner has approached the Commission under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations for approval of COD of the Asset-V. Taking into consideration energisation certificate issued by CEA, the RLDC certificate and its CMD certificate we approve the COD of Asset-V as 31.12.2017 under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations as the petitioner was ready but was prevented from putting into use regular use as HPPTCL was not ready with the downstream assets under its scope. Accordingly, the transmission charges from the COD of Asset-V, i.e. 31.12.2017 to the COD of the downstream assets of HPPTCL shall be borne by HPPTCL. Thereafter it will be included in the PoC charges. We further direct that it shall be responsibility of the petitioner to ensure safety and insurance of the transmission assets.”

20. After taking into consideration all the material, the Commission in order dated 20.7.2017 approved the COD of Asset-V as 31.12.2017 and we are of the view that there is no error on this issue of COD of Asset V. Accordingly, review on this ground is also rejected.

21. The review is partly allowed in terms of paragraphs 11 and 18 above. Accordingly, Petition No. 38/RP/2018 stands disposed of.

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

sd/-
(P.K. Pujari)
Chairperson

