

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

1. **Shri Ashok Basu, Chairman,**
2. **Shri K.N.Sinha, Member**
3. **Shri Bhanu Bhushan, Member**

**Review Petition No.2/2004
In
Petition No.26/2002**

In the matter of

Petition for approval of tariff for Ramagundam 400 kV transmission system in Southern Region for the period 1.4.2001 to 31.3.2004

And in the matter of

Review of order dated 23.10.2003 in Petition No.26/2002

And in the matter of

Power Grid Corporation of India Ltd.

.... **Petitioner**

Vs

1. Karnataka Power Transmission Corporation Ltd, Bangalore
2. Transmission Corporation of Andhra Pradesh, Hyderabad
3. Kerala State Electricity Board, Thiruvananthapuram
4. Tamil Nadu Electricity Board, Chennai
5. Electricity Department, Govt. of Pondicherry, Pondicherry

.....**Respondents**

The following were present

1. Shri U.C. Misra, Dir (Pers/Comml), PGCIL
2. Shri P.C. Pankaj, AGM (Comml), PGCIL
3. Shri Prashant Sharma, PGCIL
4. Shri U.K. Tyagi, Chief Manager, PGCIL
5. Shri D.D. Dhayaseelan, PGCIL
6. Shri S. Mehrotra, Mgr (c), PGCIL
7. Shri R. Balachandran, PGCIL
8. Shri T.S.P. Rao, PGCIL
9. Shri R.P. Padhi, PGCIL

ORDER
(DATE OF HEARING: 8.4.2004)

Petition No.26/2002 was filed by the petitioner for approval of tariff for the period from 1.4.2001 to 31.3.2004 for Ramagundam 400 kV transmission line in the Southern Region, based on the terms and conditions of tariff contained in the Commission's notification dated 26.3.2001. The tariff was approved by the Commission vide its order dated 23.10.2003. The petitioner seeks review of the said order dated 23.10.2003 limited to computation of O&M charges. The petition was listed for hearing on admission. We heard Shri U.K. Tyagi, on admission.

2 The notification dated 26.3.2001 lays down the following procedure for calculation of O&M expenses:

- (i) Where O&M expenses, excluding abnormal O&M expenses, if any, on sub-station (OMS) and line (OML) are separately available for each region, these shall be normalised by dividing them by number of bays and line length respectively. Where data as aforesaid is not available, O&M expenses in the region are to be apportioned to the sub-station and lines on the basis of 30:70 ratio and these are to be normalised as below:

O&M expenses per Unit of the line length in Kms (OMLL) =
Expenses for lines (OML)/Average line length in Kms (LL)

O&M expenses for sub-stations (OMBN) = O&M expenses for substations (OMB)/Average number of bays (BN)]

- (ii) The five years average of the normalised O&M expenses for lines and for bays for the period 1995-96 to 1999-2000 is to be escalated at 10% per annum for two years (1998-99 and 1999-2000) to arrive at normative O&M expenses per unit of line length and per bay for 1999-2000.
- (iii) The normative O&M per unit length and normative O&M per bay for the year 1999-2000 for the region derived in the preceding paragraph is to be escalated @ 6% per annum to obtain normative values of O&M expenses per unit per line length and per bay in the relevant year. These normative values are to be multiplied by line length and number of bays (as the case may be) in a given system in that year to compute permissible O&M expenses for the system.

- (iv) The escalation factor of 6% per annum is to be used to revise normative base figure of O&M expenses. Any deviation of the escalation factor computed from the actual inflation data that lies within 20% of the notified escalation factor of 6% shall be absorbed by utilities/beneficiaries.

3. The petitioner has sought reconsideration of the following elements of O&M expenses considered by the Commission in the order dated 23.10.2003:

- (a) Employee cost,
- (b) Repair and maintenance expenses, and
- (c) Other expenses - legal expenses.

Employee Cost

4. The petitioner had claimed incentive and ex-gratia payments made to its employees, including the top management, as a part of O&M expenses for the purpose of normalisation. It was clarified by the petitioner that incentive and ex-gratia payments were not the minimum statutory bonus payable under the Payment of Bonus Act. The Commission in the order dated 23.10.2003 decided that the payments of incentive, other than statutory minimum bonus was at the discretion of the petitioner and should be borne out of its profit or incentive earned by it from the respondents for achieving higher productivity in the form of higher availability of the transmission system. Accordingly, incentive and ex-gratia payments made by the petitioner to its employees were excluded from consideration for computation of employee cost.

5. The petitioner has submitted that payments on account of incentive and ex-gratia are obligatory payments since the petitioner had given a commitment to the employees who came on transfer from NTPC and NLC to continue protection of the

incentive payment earlier available to them before their transfer to the petitioner company. It is submitted that the Hon'ble Supreme Court had also held that the employees of the petitioner would be entitled to incentive and ex-gratia at par with NTPC/NHPC employees.

6. All the facts were available on record in the original proceedings in Petition No.26/2002. However, the Commission took a conscious view to exclude the payments on account of incentive and ex-gratia for the purpose of computation of employee cost component of O&M charges. For this short reason, review of the order is not made out. It goes without saying that payment of incentive and ex-gratia results in higher productivity by enhancing the level of availability of the transmission system. Accordingly, the petitioner becomes entitled to claim from the respondents incentive for the increased availability in the tariff. The petitioner's return in the form of incentive from the respondents far exceeds the amount of incentive and ex-gratia paid by it to its employees. Therefore, we are of the considered view that the expenditure on this account should be met by the petitioner out of incentive which is earned by ensuring higher level of availability in the transmission system. For this reason the incentive and ex-gratia payments were kept out of employee cost. We do not find any reasons to take a different view on merits. Even in case of NTPC and NHPC, incentive and ex-gratia are not considered for calculation of employee cost. There is thus no justification for review of the order on this account. At the hearing, it was clarified on behalf of the petitioner that nearly 43% of its work force was transferred from other organisations during 1991-92 and sought the expenditure to be computed towards employee cost, on the ground that the petitioner was obliged to make payment to them. However, on the ground, the representative of the petitioner could not justify

the incentive and ex gratia payments to the remaining 57% of its strength, including the top management.

Repair and Maintenance Expenses

7. It was found that there was an increase of 86.89% in "repair and maintenance expenditure" during 1998-99 over the expenses for the year 1997-98. It was explained by the petitioner that variation was on account of major repair of circuit breaker at Cuddapah sub-station and two towers in Ramagundam-Chandrapur transmission line. The Commission on consideration of the explanation rendered by the petitioner, had observed that major repairs could not be recurring feature and hence expenses on that account were excluded from the process of normalisation. Accordingly, in terms of the notification dated 26.3.2001, the repair and maintenance expenses for 1998-99 were limited to Rs.328.79 lakh, representing 20% increase over the repair and maintenance expenses for the year 1997-98. The Commission had further observed that if any major repairs were undertaken during the tariff period covered by the order, that is, 1.4.2001 to 31.3.2004, the petitioner could approach the Commission to claim the actual expenses as part of O&M expenses.

8. The petitioner has submitted that an amount of Rs.183.28 lakh on account of repair and maintenance for the year 1998-99 disallowed by the Commission should be allowed as per the actuals which are necessary to undertake preventive maintenance of the aging equipment. Further, it is stated that the petitioner is using modern technologies maintenance cost of which is much higher and this results in higher O&M expenses. It is submitted that the expenses approved by the Commission for the

period from 1.4.2001 to 31.3.2004 are insufficient to meet these requirements, repair and maintenance charges being in the range of 0.35% of the asset base.

9. The Commission in its order dated 23.10.2003 had not allowed the entire amount under the head "repair and maintenance" for the year 1998-99 on the ground that a substantial part of expenditure was incurred on major repair of circuit breaker at Cuddapah sub-station and of collapsed tower which cannot be a regular phenomenon for the future years. However, a liberty was granted to the petitioner to approach the Commission with proper justification to claim actual expenses, if incurred during the tariff period on major repairs. The decision of the Commission arrived at after careful consideration of the material on record, cannot be a ground for review of the order. The other submission made by the petitioner is that the actual O&M expenses during the period from 1.4.2001 to 31.3.2004 are likely to exceed the O&M expenses approved by the Commission in order dated 23.10.2003 and, therefore, the petitioner seeks a review. It goes without saying that this cannot by itself be a ground for review of the order since O&M expenses have been allowed in accordance with the provisions of the notification dated 26.3.2001, reproduced above. It is not the case of the petitioner that the notification dated 26.3.2001 has not been properly applied. Accordingly, we do not find merit in the submissions made by the petitioner for review of "repair and maintenance expenses".

Other Expenses

10. In regard to "other expenses" the Commission in its order dated 22.10.2003 had directed as under:

"In case of SRTS, the petitioner has stated that the provisions are made for the losses and shortage of store materials and for the doubtful advances paid to

contractors. Since all these items are controllable by the petitioner and reflect the managerial efficiency of the petitioner, the provisions made in case of SRTS on this account have not been considered as admissible for reimbursement. In case of Corporate Office, the following expenses have not been admitted for reimbursement:

(a)

(b)

(c) Legal expenses amounting to Rs. 2.65 lakh in the Corporate Office on legal opinion on CERC matters have not been allowed in line with the Commission's policy of allowing only the fees for the petitions filed in the Commission. However, other legal expenses for disputes related to compensation, contracts, service matters and labour cases have been admitted."

11. The petitioner has submitted that as part of the commercial activity and filing of petitions, pleadings, arguments on legal matters, the petitioner is required to engage professionals and pay for the services availed of. Based on this logic, the petitioner has sought consideration of Rs.2.65 lakh towards O&M expenses. At the hearing, the representative of the petitioner did not press this point.

12. In the light of foregoing discussion, the application for review is dismissed at admission stage.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 13th April 2004