

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. Dr. Pramod Deo, Chairperson
2. Shri Bhanu Bhushan, Member
3. Shri R.Krishnamoorthy, Member
4. Shri S.Jayaraman, Member

Petition No. 92/2008

In the matter of

Relaxation of norms related to O & M expenditure forming part of transmission tariff of transmission system associated with the Tala Hydro Electric Project, East-North Inter-Connector and Northern Region Transmission System.

And in the matter of

M/s Powerlinks Transmission Ltd., New Delhi **Petitioner**

Vs.

1. Powergrid Corporation of India Ltd., Gurgaon
2. Rajasthan Rajya Vidyut Prasaran Nigam Ltd., Jaipur
3. Ajmer Vidyut Vitran Nigam Ltd., Ajmer
4. Jaipur Vidyut Vitran Nigam Ltd., Jaipur
5. Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur
6. Punjab State Electricity Board, Patiala
7. Haryana Vidyut Prasaran Nigam Ltd., Panchkula
8. Uttar Pradesh Power Corporation Limited, Lucknow
9. Power Development Deptt., Govt. of Jammu & Kashmir, Jammu
10. Delhi Transco Limited, New Delhi
11. Himachal Pradesh State Electricity Board, Shimla
12. Chandigarh Administration, Chandigarh
13. Uttaranchal Power Corporation Limited, Dehradun
14. North Central Railway, Allahabad
15. BSES Yamuna Power Ltd., Delhi
16. BSES Rajdhani Power Ltd., New Delhi
17. North Delhi Power Ltd., New Delhi
18. West Bengal State Electricity Board, Kolkata
19. Damodar Valley Corporation, Kolkata
20. Bihar State Electricity Board, Patna
21. Grid Corporation of India Ltd., Bhubaneswar
22. Power Department, Govt. of Sikkim, Gangtok
23. Jharkhand State Electricity Board, Ranchi **Respondents**

Following were present:

1. Shri M.G. Ramachandran, Advocate, PTL
2. Shri Suresh Sachdev, CEO, PTL
3. Shri B.A. Chaudhari, COO, PTL

ORDER
(Date of Hearing: 11.11.2008)

The application has been made with a prayer to allow the petitioner O & M expenses for the transmission system established, operated and maintained by it for the years 2006-07 and 2007-08 based on actuals.

2. The petitioner, a joint venture between the Tata Power Co. Ltd. and Power Grid Corporation of India Ltd. (the first respondent), has been incorporated to establish, operate and maintain the following elements of the transmission system associated with Tala Hydro Electric Project, East-North Inter-Connector and Northern Region Transmission system, namely:

- (a) Siliguri-Purnea 400 kV D/C (Quad. Moose Conductor) transmission line,
- (b) Purnea-Muzaffarpur (New) 400 kV D/C (Quad. Moose Conductor) transmission line,
- (c) Muzaffarpur (New)-Gorakhpur (New) 400 kV D/C (Quad. Moose Conductor) transmission line,
- (d) 220 kV D/C line from Muzaffarpur 400/220 kV new sub-station to Muzaffarpur 220 KV sub-station (BSEB) transmission line,
- (e) Gorakhpur (New)-Lucknow (New) 400 kV D/C (Twin Moose Conductor) transmission line, and
- (f) Bareilly-Mandola 400 kV D/C (Twin Moose Conductor) transmission line.

3. The petitioner had made applications (Petitions Nos. 147/2007, 148/2007 and 149/2007) for approval of transmission charges in respect of the above-noted transmission lines in terms of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004 (hereinafter referred to as “the 2004 regulations”). In addition to normative O & M expenses specified under the 2004 regulations, the petitioner had claimed expenses on account of insurance and the licence fee. In particular, in Petition No. 148/2007, the petitioner had pointed out that the normative O & M expenses were not sufficient to meet the actual expenditure on account of price rise, pay revision of employees of the public sector undertakings w.e.f. 1.1.2007 and lack of economies of scale as compared to those available to the first respondent. The Commission, however, approved the transmission charges vide its orders dated 28.4.2008 and 30.8.2008 based on the normative O & M expenses specified under the 2004 regulations.

4. The present petition has been filed by virtue of Regulation 13 of the 2004 regulations which empowers the Commission to relax any of the provisions of these regulations. The petitioner has explained that the norms for O & M expenses specified under the 2004 regulations are based on the data submitted by the first respondent, PGCIL, who enjoys the economies of scale by virtue of its large scale of operation. It has been submitted that similar benefit is not available to the petitioner for the reason that it is operating only one set of transmission line. It is further submitted that O & M expenses norms as specified under the 2004 regulations are

based on average historical cost of PGCIL under this head, without differentiation of level of voltages or configuration of conductor used. The petitioner has reiterated that there is likely to be significant escalation in the employee cost because of revision of salary and wages of the employees of the public sector undertakings w.e.f. 1.1.2007, which will widen further the gap between normative O&M expenses allowed and its actual expenses. The petitioner has claimed that the entire effect of pay-revision should be added towards recovery of O & M expenses. The petitioner has argued that the present norms for O & M expenses allow recovery of such expenses at 0.39% of the project cost in comparison to earlier norm of 1.5% of that cost, which is totally inadequate to meet the expenses incurred by the petitioner. The petitioner has submitted the following details of additional O & M expenses recoverable based on the actual expenditure incurred by it:

		(Rs. in lakh)	
		2006-07	2007-08
1.	Actual O&M expenses	408.09	926.00
2.	Contribution to Self Insurance Reserve	200.00	200.00
3.	Total (1 + 2)	608.09	1126.00
4.	O&M charges allowed in Petitions Nos. 147/2007, 148/2007 and 149/2007	383.60	594.66
5.	Excess O&M charges (3-4)	224.49	531.34

5. Clause (iv) of Regulation 56 of the 2004 regulations specifies the norms for O & M expenses as under:

	2004-05	2005-06	2006-07	2007-08	2008-09
O&M expenses (Rs. in lakh per ckt-km)	0.227	0.236	0.246	0.255	0.266
O&M expenses (Rs. in lakh per bay)	28.12	29.25	30.42	31.63	32.90

6. While approving transmission charges by orders dated 28.4.2008 and 30.4.2008, these norms have been applied. These norms are considered while approving tariff for the transmission assets owned by the transmission licensees. While approving the transmission charges, the Commission had specifically disallowed additional expenses on account of insurance and licence fee. The relevant portion of the Commission's observations in this regard is extracted below:

45. We have considered the matter. The petitioner will be getting a Transmission Majoration Factor (TMF) as 10% mark up (pre-tax) on transmission charges. This issue has been covered in detail in later part of this order. Here, we may only point out that the decision to allow TMF was taken by the Commission vide order dated 29.5.2001 in Petition No.23/2001 filed by National Grid International Limited (NGIL). In the aforesaid petition, NGIL, had *inter alia* raised the issue that the expenditure incurred by it on insurance will not be recovered by the norms contained in the 2001 regulations. This was one of the grounds for decision of the Commission to allow TMF. The relevant part of the aforesaid order is as under:

"13. In the Commission's order, the O&M expenses allowed by the Commission, includes the expenses on insurance, if any. The petitioner has pleaded that it may be allowed recovery of insurance expenses @ 0.5% of the project cost. According to the petitioner, PGCIL is self-insuring its projects and is not incurring any expenditure on insurance. We are not in favour of modifying the norms for O&M expenses as provided in the Commission's order. However, to enable the petitioner to meet any additional expenses, not provided for in the Commission's order, we have proposed a Transmission Majoration Factor to take care of such expenses, a concept discussed subsequently."

46. Some other factors which have been considered by us in the context of the petitioner's request for reimbursement of insurance related expenditure are as under-

(a) Power Grid Corporation of India, the joint venture partner of the petitioner is carrying out self-insurance for most assets and only remaining few assets are covered under insurance cover from insurance providers. For this purpose, Power Grid is charging 0.1% of the gross block. This is reflected in O&M norms on per km and per bay basis since these norms have been derived from the actual O&M expenses furnished by the Power Grid. Therefore, the conclusion drawn by the petitioner that only few equipment are covered under insurance in case of Central Public Sector utilities is not correct.

(b) The norms for O&M expenses contain a component of insurance. It is noted that insurance expenses form about 6% of the normative O&M expenses allowed. This works out to about Rs.36 lakh for 2007-08, if we apply norms contained in clause 56 (iv) of the Regulations 2004 for all the assets of the project executed by the petitioner. Such amount will be available to the petitioner every year during the entire licence period of 25 years.

(c) The additional expenses claimed by the petitioner are not in accordance with the terms and conditions of tariff. In Petition No. 40/2003, which was the application filed by the petitioner for grant of transmission licence, the petitioner had raised tariff related issues. In the aforesaid petition, the Commission, vide order dated 19th September 2003, had clarified that the tariff determination shall be in accordance with the terms and conditions of tariff applicable at the relevant time.

(d) At the time of finalization of terms and conditions of tariff for the period 2004-09 as contained in the 2004 regulations, the petitioner had raised the issue that insurance cost should be paid separately. The Commission vide order dated 29.3.2004, which is the basis for the 2004 regulations had *inter alia* dismissed this claim by stating that private entrepreneurs are expected to achieve higher efficiency in operation so that can meet the additional expenditure on account of insurance.

47. In view of the considerations mentioned in paras 45 and 46 above, the petitioner is not entitled to reimbursement of additional expenses on account of insurance.

LICENCE FEE

48. The petitioner has claimed an amount of Rs.5.57 lakh each year on account of licence fee. As per Section 12 of the Electricity Act, 2003, no person, shall transmit electricity unless he is authorized to do so by a licence issued under Section 14, or exempt under Section 13. The Commission has issued licence to the petitioner to transmit the electricity under Section 14 of the Electricity Act, 2003. Thus payment of fee for obtaining licence is a condition precedent for operation of licence. The 2004 regulations do not make any specific provision for reimbursement of the licence fee. Therefore, the request made by the petitioner for reimbursement of licence fee is not allowed and the expenditure is to be met by the petitioner out of the O&M expenses.

49. It is also pointed out that the petitioner is being allowed the Transmission Majoration Factor (TMF) @ 10% of the transmission charges, as per para 58 below, which is not allowed to other transmission licensees like Power Grid. TMF being allowed is quite a substantial amount. The TMF has its origin in the form of the development surcharge of 10% the transmission charges allowed to Power Grid. Though intention of the Transmission Majoration Factor was to involve private sector in the transmission set-up, the above aspect cannot be overlooked altogether. The development surcharge is no longer being recovered by Power

Grid, but the petitioner would continue to get the excess amount on account of the TMF for period of 25 years. Therefore, the licence fee payable by the petitioner may be considered as component of TMF. When the matter is viewed from that angle, there may be less scope for heart-burning on account of denial of refund of the license fee.”

7. As regards additional expenses on account of wage revision of the employees, the Commission observed as under:

“The petitioner has submitted that the wage revision of its employees is due with effect from 1.1.2007. Therefore, according to the petitioner, O&M expenses should be subject to revision on account of revision of employee cost from that date. In the alternative, it has been prayed that the increase in employee cost due to wage revision be allowed as per actuals for extra cost to be incurred consequent to wage revision. We are not expressing any view, as this issue does not arise for consideration at this stage. The petitioner may approach for a relief in this regard at an appropriate stage in accordance with law.”

8. Heard Shri M.G. Ramachandran, Advocate for the petitioner.

9. The exercise of power of relaxation is discretionary and is to be based on good and sufficient reasons. In our considered view, no case for exercise of discretion for relaxation of O&M expenses norms specified under the 2004 regulations in the present case is made out. These norms were specified after an elaborate process of consultation with the stakeholders and after due consideration of the data of actual O & M expenses submitted by the first respondent. The Commission through a deliberate and conscious decision had de-linked the O & M expenses from the project cost and specified norms for recovery of such expenses based on actuals for the previous years, after applying appropriate escalation rates. The reasons earlier given for rejection of the petitioner’s claim on account of insurance and licence fee squarely apply to the petition on hand. The terms and

conditions for determination of tariff are applicable as a complete package. The petitioner is allowed 10% of the total transmission charges as the Transmission Majoration Factor (TMF), which is not available to any other transmission licensee. TMF works out to a substantial amount against the total transmission charges of Rs. 13217.18 lakh and Rs.24765.96 lakh for the years 2006-07 and 2007-08 respectively, already approved.

10. It bears notice that the petitioner has filed a Civil Writ petition before the Delhi High Court (W.P. No. 16042/2006), wherein the petitioner has claimed O & M expenses at the rate of 1.5% of the project cost. The said writ petition is presently pending. The decision of the Hon'ble High Court will be applicable in case the petitioner succeeds. Therefore, for this reason also, at this stage, we are not inclined to pass any order on the petitioner's claim for actual O & M expenses.

11. As noted above, the Commission has already granted liberty to the petitioner to approach the Commission for revision of O & M expenses based on actual employee cost, consequent to revision of pay and allowances w.e.f. 1.1.2007. The petitioner has reiterated and relied upon the revision of pay and allowances of employees as a ground to seek refund of actual O & M expenses, without any details. In case the petitioner is similarly placed as the public sector undertakings, it can make an appropriate application before the Commission in terms of the liberty already granted. The application, when made, will be considered on its own merits in accordance with law. No relief can be granted to the petitioner on this count at this stage when the petitioner has not furnished even the basic data of impact of the

proposed revision of pay and allowances of employees of the public sector undertakings, on its own O & M expenses.

12. In view of the foregoing discussion, the present petition is dismissed.

Sd/- [S. JAYARAMAN] MEMBER	Sd/- [R. KRISHNAMOORTHY] MEMBER	Sd/- [BHANU BHUSHAN] MEMBER	Sd/- [DR. PRAMOD DEO] CHAIRPERSON
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New Delhi, dated the 27th November 2008