

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 188/MP/2014

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri A. K. Singhal, Member

Shri A. S. Bakshi, Member

Dr. M. K. Iyer, Member

Date of order: 2nd of March, 2017

In the matter of

Miscellaneous petition under Regulation 24, 111 and 113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulation 54 (Power to Relax) and Regulation 55 (Power to Remove Difficulty) of the Central Electricity Regulatory Commission (Terms and conditions of Tariff) Regulations, 2014 for recovery of cost for the assets of SCADA/EMS system of SLDCs.

And

In the matter of

Power Grid Corporation of India Ltd.
Saudamini, Plot No. 2, Sector 29,
Gurgaon-122 001, Haryana

...Petitioner

Vs.

1. Bihar State Electricity Board
Vidyut Bhawan, Bailey Road
Patna – 800 001
Represented by its Chairman
2. West Bengal State Electricity Board
Bidyut Bhawan, Bidhan Hagar
Block DJ, Sector-II, Salt Lake City
Calcutta- 700 091
Represented by its Chairman
3. Grid Corporation of Orissa Ltd.
Shahid Nagar, Bhubaneshwar – 751 007
Represented by its Chairman

4. Damodar Valley Corporation
DVC Tower, Maniktala
Civic Tower, VIP Road, Calcutta – 700 054
Represented by its Chairman
5. Power Deptt.
Govt. of Sikkim, Gangtok – 737 101
Represented by its Commissioner and Secretary (Power)
6. Jharkhand State Electricity Board
In Front of Main Secretariat
Doranda, Ranchi – 834 002
Represented by its Chairman
7. Assam State Electricity Board
Bijulee Bhawan, Paltan Bazar
Guwahati – 781 001, Assam
Represented by its Chairman
8. Meghalaya State Electricity Board
Short Round Road
Shillong – 793 001
Represented by its Chairman
9. Government of Arunachal Pradesh
Itanagar, Arunachal Pradesh
Represented by its Commissioner & Secretary (Power)
10. Power & Electricity Deptt.
Govt. of Mizoram
Mizoram, Aizwal
Represented by its Joint Secretary (Power)
11. Electricity Department
Govt. of Manipur, Keishampat
Imphal
Represented by its Principal Secretary (Power)
12. Department of Power
Govt. of Nagaland
Kohima, Nagaland
Represented by its Commissioner & Secretary (Power)
13. Tripura State Electricity Corporation Ltd.
Banamalipur, Agartala – 799 001 (Tripura)
Represented by its Managing Director & Others

14. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.
Vidyut Bhawan, Vidyut Marg, Jaipur – 302 005
Represented by its Chairman & Others
15. Ajmer Vidyut Vitran Nigam Ltd.
Old Power House, Hathi Bhata, Jaipur Road
Ajmer, Rajasthan
Represented by its Managing Director & Others
16. Jaipur Vidyut Vitran Nigam Ltd.
Vidyut Bhawan, Janpath, Jaipur – 302 005
Represented by its Managing Director & Others
17. Jodhpur Vidyut Vitran Nigam Ltd.
New Power House, Industrial Area, Jodhpur, Rajasthan
Represented by its Managing Director & Others
18. Himachal Pradesh State Electricity Board
Vidyut Bhawan
Kumar House Complex Building II, Shimla
Represented by its Chairman
19. Punjab State Power Corporation Ltd.
220 kV Sub Station, Abolwal, Patiala – 147 001
Represented by its Chairman
20. Haryana Power Purchase Centre
Shakti Bhawan, Sector-6, IInd Floor,
Panchkula (Haryana) 134 109
Represented by its Chief Engineer
21. Power Development Deptt.
Govt. of Jammu & Kashmir
Mini Secretariat, Jammu
Represented by its Commissioner
22. Uttar Pradesh Power Corporation Ltd.
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg
Lucknow – 226 007
Represented by its Chairman
23. Delhi Transco Ltd.
Shakti Sadan, Kotla Road
New Delhi – 110 002
Represented by its Chairman

24. Chandigarh Administration
Sector – 9, Chandigarh
Represented by its Chief Engineer
25. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road
Dehradun
Represented by its Managing Director
26. BSES Yamuna Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi
Represented by its CEO
27. BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi
Represented by its CEO
28. North Delhi Power Ltd.
Power Trading & Load Dispatch Group
Cennet Building, Adjacent To 66/11 kV Pitampura – 3
Grid Building, Near PP Jewellers
Pitampura, New Delhi – 110 034
Represented by its CEO
29. NDMC, Mezzanine Floor,
Palika Kender, New Delhi – 110 001
30. North Central Railway
Allahabad
Represented by Chief Electrical Distribution Engineer
31. Karnataka Power Transmission Corporation Ltd.
Cauvery Bhawan, Bangalore – 560 009
Represented by its Chairman
32. Bangalore Electricity Supply Company Ltd. (BESCOM)
Corporate Office,
KR Circle, Bangalore – 560 001
Karnataka
Represented by its Managing Director
33. Gulbarga Electricity Supply Company Ltd. (GESCOM)
Station Main Road
Gulbarga, Karnataka
Represented by its Managing Director

34. Hubli Electricity Supply Company Ltd. (HESCOM)
Navanagar, PB Road
Hubli, Karnataka
Represented by its Managing Director
35. Mangalore Electricity Supply Company Ltd. (MESCOM)
Corporate Office, Paradigm Plaza AB Shetty Circle,
Mangalore – 575 001, Karnataka
Represented by its Managing Director
36. Chamundeshwari Electricity Supply Corporation Ltd. (CESC)
927, LJ Avenue, GF New Kanthraj URS Road
Saraswathipuram, Mysore – 570 009 Karnataka
Represented by its Managing Director
37. Transmission Corporation of Andhra Pradesh Ltd.
Vidyut Soudha, Hyderabad – 500 049
Represented by its Chairman
38. Eastern Power Distribution Company of Andhra Pradesh Ltd.
(APEPDCL)
P&T Colony, Seethammadhara,
Visakhapatnam, Andhra Pradesh
Represented by its Managing Director
39. Southern Power Distribution Company of Andhra Pradesh Ltd.
(APSPDCL)
Srinivasa Kalyana Mandapam Backside, Tiruchanoor Road,
Kesvayana Gunta,
Tirupati – 517 501, Chittoor District, Andhra Pradesh
Represented by its Managing Director
40. Central Power Distribution Company of Andhra Pradesh Ltd.
(APCPDCL)
Corporate Office, Mint Compound,
Hyderabad, 500 063, Andhra Pradesh
Represented by its Managing Director
41. Northern Power Distribution Company of Andhra Pradesh Ltd.
(APNPDCL)
Opp. NIT Petrol Pump, Chethanyapuri, Kazipet
Warangal 506 004, Andhra Pradesh
Represented by its Managing Director
42. Kerala State Electricity Board
Vaidyuthi Bhavanam,
Pattom, Thiruvanthapuram – 695 004

Represented by its Chairman

43. Tamil Nadu Electricity Board
800, Anna Salai, Chennai – 600 002
Represented by its Chairman
44. Electricity Department
Govt. of Pondicherry
Pondicherry – 605 001
Represented by its Chief Secretary
45. Electricity Department
Govt. of Goa
Vidyut Bhavan, 3rd Floor,
Panji, Goa
Represented by its Chief Engineer
46. Madhya Pradesh Tradeco
(Erstwhile Madhya Pradesh Electricity Board)
PO Box 34, Rampur
Jabalpur – 482 008
Represented by its Chairman
47. Madhya Pradesh Audyogik Kandra Vikas Nigam (Indore) Ltd.
3/54, Press Complex, Agra-Bombay Road
Indore – 452 008,
Represented by its CEO
48. Jindal Powers Ltd., International Home Deco Park,
Plot No. 7, Sector No. 127, Taj Express Way
Noida – 201 301
Represented by its CEO
49. Maharashtra State Electricity Distribution Co. Ltd.
Prakashgad, 4th Floor,
Bandra (East), Mumbai – 400 052
Represented by its Chairman
50. Gujarat Urja Vikas Nigam Ltd.
Vidyut Bhawan, Race Course
Baroda – 390 007
Represented by its Chairman
51. Electricity Department
Administration of Daman & Diu
Daman – 396 210
Represented by its Secretary (Power)

52. Electricity Department
Administration of Dadra Nagar Haveli
U.T. Silvassa – 396 230
Represented by its Secretary (Power)

53. Chhattisgarh State Electricity Board
P.O. Sunder Ngr, Dangania, Raipur
Chhattisgarh – 492 013
Represented by its Chairman

...Respondents

The following were present:

Shri S.S.Raju, PGCIL,
Shri M.M.Mondal, PGCIL
Shri Rajendra Kumar Gupta, PGCIL
Shri Rakesh Prasad, PGCIL
Shri A.K.Gahlat, DTL
Shri Pradeep Mishra, Advocate, Rajasthan Discoms

ORDER

This petition has been filed by the Power Grid Corporation of India Limited under Regulation 24, 111 and 113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as amended from time to time for approval of recovery of cost for the assets of SCADA/EMS system of SLDCs.

2. The petitioner has submitted that the following facts have led to filing of this petition:

(a) Unified Load Despatch and Communication (ULDC) Schemes were established by the petitioner in consultation with the constituents on regional basis for providing EMS/SCADA and Communication System for management of Regional Power Grid. The ULDC projects

were commissioned progressively from July 2002 to February 2006 in Southern, Northern, North-Eastern, Eastern and Western Regions. The tariff for these assets commissioned under ULDC Schemes is being recovered from the constituents through levelised tariff approved by the Commission over a period 15 years.

(b) The Commission vide order dated 8.12.2011 in Petition No. 68/2010 directed to continue with the levelised tariff for the Communication system and ULDC System for 2009-14 period.

(c) As per the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, tariff of the existing communication system forming part of transmission system shall be as per the methodology followed by the Commission prior to 1.4.2014. SCADA system has also been included in the communication system.

(d) The obsolescence and technology changes in information technology and rapid growth in power system has necessitated the Up-gradation/expansion of existing RLDCs and SLDCs. In the 18th NRPC meeting held on 27.11.2010, the issue of expansion/up-gradation of SCADA/EMS system along with setting up of back up control system stage was discussed and it emerged that the up-gradation project can be implemented by PGCIL as in case of ULDC projects. It was also suggested that the petitioner can fund the schemes and get the

regulatory approval from the Commission and the investment made by the petitioner can be recovered through tariff as in case of ULDC Phase-I.

(e) PGCIL filed Petition No. 32/MP/2011 for approval of implementation of expansion/replacement of SCADA/EMS system for SLDCs in Northern Region. The Commission vide order dated 28.12.2011 approved replacement/up-gradation of SCADA/EMS system for SLDC system. The Commission further observed that the petitioner can implement the schemes in accordance with agreements with the beneficiaries in the respective Regional Power Committees. Accordingly, the petitioner in various RPC meetings obtained the approval for expansion/up-gradation of SCADA/EMS system in WRPC, SRPC, ERPC and NERPC. However, while granting approval of up-gradation project for Northern Region, the Commission directed PGCIL to ensure that the projects for RLDC and SLDCs in respective regions be implemented in an integrated and compatible manner to obviate any operational problem in future. The Commission further directed PGCIL to implement all the schemes in a coordinated manner within the same time frame to achieve optimization of cost and economies of scale.

(f) Up-gradation/replacement of SCADA system established under ULDC scheme is being replaced in all the five regions as under:

(i) **Northern Region:** In SLDCs of BBMB, Uttar Pradesh, Rajasthan, Haryana, Punjab, Delhi, Himachal Pradesh, Jammu and Kashmir, the project was expected to be completed by December, 2014. However, the upgradation of SLDC of Uttarakhand has been executed by the State.

(ii) **Western Region:** In SLDCs of Gujarat, Madhya Pradesh, Chhattisgarh and Goa, the project was expected to be completed by March, 2015. Up-gradation of SLDC of Maharashtra has been executed by the State.

(iii) **Eastern Region:** In SLDCs of DVC, Bihar, Jharkhand and Sikkim, the project was expected to be commissioned by July 2015. Upgradation of SLDCs of West Bengal and Odisha was being funded by the respective States and were being executed by PGCIL. The projects were expected to be completed by July, 2015 and September 2014 for the SLDCs of West Bengal and Odisha respectively.

(iv) **Eastern Region:** In SLDCs of Assam, Tripura, Meghalaya, , Manipur, Mizorm and Arunachal Pradesh, the project is expected to be completed by September 2015

(v) **Southern Region:** Up-gradation of SLDCs of Andhra Pradesh, Kerala and Puducherry which is funded by States, is being

executed by PGCIL and was expected to be commissioned by December, 2014. Up-gradation of SLDCs of Karnataka and Tamil Nadu was being executed by the respective States.

(g) After replacement of SCADA/EMS system at SLDCs, the existing SCADA system would not be in use. Since the investment made in SCADA/EMS system for SLDCs is being recovered from the constituents through levelised tariff over a period of 15 years, the expenditure incurred towards SCADA/EMS system established under ULDC scheme was to be fully recovered over a period of fifteen years.

(h) The tariff for similar SCADA/EMS system for RLDCs, commissioned under the same project along with that of SLDCs, are being recovered from the same constituents by POSOCO in terms of the Central Electricity Regulatory Commission (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 (RLDC Fees and Charges Regulations). As per RLDC Fees and Charges Regulations, the salvage value for IT equipment and software is required to be considered as nil and 100% value of the assets is required to be considered depreciable along with 15% depreciation rates for IT equipments and 30% depreciation rate for software. Therefore, as per the depreciation rates allowed in the RLDC Fees and Charges Regulations, the charges for SCADA/EMS system for RLDCs (which are retained by POSOCO after its formation/separation) shall be fully recovered by RLDCs before its replacement.

(i) 2014 Tariff Regulations provides for depreciation rates for IT equipments and software as 15%.

3. Against the above background, the petitioner has approached the Commission for recovery of cost of the assets of SCADA/EMS system for SLDCs by exercising the power of relaxation under Regulation 54 of 2014 Tariff Regulations with the following prayers to:

- (i) Approve the unrecovered charges of existing ULDC SCADA/EMS system of SLDCs (retained by POWERGRID), which are presently being recovered considering 15 years of project life, may be allowed to be recovered as **accelerated** depreciation matching with commissioning schedule of new SCADA/EMS System;
- (ii) Pass such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice."

4. During the course of hearing, the representative of Delhi Transco Limited submitted that the petitioner should have recovered the balance charges before the installation or completion of the useful life. Learned counsel for Distribution companies of Rajasthan submitted that the beneficiaries should not be burdened by accelerated depreciation. DTL and Rajasthan Discoms were directed to file submissions. However, no submissions have been filed by them. None of the respondents has filed the reply to the petition.

Analysis and Decision:

5. We have considered the submissions of the petitioner and learned counsels for the respondents. The petitioner has been recovering the cost of

the assets commissioned under the Unified Load Despatch Centre and Communication Schemes from the constituents through levelised tariff over a period of fifteen years in the form of fee and charges.

6. Government of India, Ministry of Power vide order dated 4.2.2008 constituted the Pradhan Committee to examine issues relating to manpower, certification and incentives for the personnel employed in system operation at various levels and also for ring-fencing the load despatch centres to ensure their functional autonomy and give its recommendations. Subsequently, Government of India, Ministry of Power vide its letter dated 13.10.2009 constituted a Task Force under the Chairmanship of Shri Satnam Singh, the then CMD, Power Finance Corporation to look into the financial aspects for augmentation and upgradation of the State Load Despatch Centres and issues related to emoluments for the personnel engaged in system operation. On the basis of the recommendations of the Pradhan Committee and Satnam Singh Task Force constituted by Government of India, Ministry of Power, POSOCO came into existence w.e.f 1.4.2009. Subsequent to the Task Force's report, the petitioner constituted committees at the regional level to identify the assets to be transferred to POSOCO. The Committees made the following recommendations for asset transfer to POSOCO and assets remained to PGCIL:

(A) Assets to be transferred to POSOCO:

(i) EMS/SCADA system (computer system, hardware and software)

(ii) Auxiliary power supply system comprising of uninterrupted power supply, diesel generating set, etc.

(iii) Building and civil works

(B) Assets which will remain with petitioner

I. Central Portion

(i) Fibre Optic Cables (overhead and underground)

(ii) Fibre Optic Communication Equipment

(iii) Digital Microwave Communication System (Tower, Antenna, Equipment etc.)

(iv) PABX

(iv) Power Line Carrier Communication system;

(vi) Auxiliary power supply system

II. State Portion: Entire state portion which consists of the following equipments will remain with the petitioner:

(i) EMS /SCADA System

(ii) Fibre Optic system:

(iii) Digital Microwave Communication System (Tower, Antenna, Equipment etc.)

(iv) PABX

(v) Power Line Carrier Communication System

(vi) Auxiliary power supply system (part)

7. The assets mentioned at B.(i) and B (ii) above were retained by the petitioner. However, the responsibility for maintenance of SCADA/EMS system for the SLDCs lies with the respective SLDC for their portion. The Commission vide order dated 8.12.2011 in Petition No. 68/2010 directed to continue with the levelised tariff for the existing assets i.e. communication system assets retained by PGCIL. Relevant Portion of the said order is extracted as under:

“9. We have considered the submissions of the petitioner and objections of the respondents. The ULDC schemes were introduced in different regions between 2002 and 2006. The Commission had not specified any regulations as required under section 28(4) of the Act for determination of fees and charges for the assets under ULDC scheme during 2004-09 period. Therefore, the Commission determined the tariff of ULDC schemes in exercise of its powers under section 28(4) of the Act by adopting certain parameters modelled on the basis of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004. The Commission has specified the Central Electricity Regulatory Commission (fees and charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 (hereinafter “the RLDC regulations”) to determine the fees and charges for National Load Despatch Centre and Regional Load Despatch Centres (RLDCs) which is applicable for a control period of 5 years from 1.4.2009 till 31.3.2014. Thus, the fees and charges for the assets created under ULDC scheme and transferred to Power System Operation Corporation (POSOCO) comprising RLDCs and NLDC would be covered under the RLDC regulations. However, the assets retained with the CTU consequent to creation of POSOCO, particularly the communication system and SLDC system are neither covered under the RLDC regulations nor under the 2009 regulations. Since the communication system and SLDC systems form part of the assets of the CTU, there is a requirement to specify regulations for determination of tariff of these assets. We direct the staff of the Commission to undertake the exercise separately and include these assets of CTU in the tariff regulations applicable for the next tariff period i.e.2014-19. As regards the tariff of these assets for the period 2009-14, we are not inclined to determine the tariff of these assets by exercising our power of relaxation under Regulation 44 of the 2009 regulations since there is no provisions for determination of tariff for the assets covered under the communication system and ULDC system. We are of the view that the tariff of these assets shall be determined under our general power of determination of tariff for inter-State transmission system under section 79(1)(d) of the Act. In this connection, we quote the following extract from the judgement of the Constitution Bench of the Supreme Court in PTC India Ltd v Central Electricity Regulatory Commission {JT2010(3)SC1}:

“40.On reading Sections 76(1) and 79(1) one finds that Central Commission is empowered to take measures/steps in discharge of the functions enumerated in Section 79(1), like to regulate the tariff of generating companies, to regulate the inter-State transmission of electricity, to determine tariff for inter-State transmission of electricity, to issue licenses, to adjudicate upon disputes, to levy fees, to specify the Grid Code, to fix the trading margin in inter-State trading of electricity, if considered necessary, etc.. These measures, which the Central Commission is empowered to take, have got to be in conformity with the regulations under Section 178, wherever such regulations are applicable. Measures under Section 79(1), therefore, have got to be in conformity with the regulations under Section 178. To regulate is an exercise which is different from making of the regulations. However, making of a regulation under Section 178 is not a pre-condition to the Central

Commission taking any steps/measures under Section 79(1).
.....Similarly, while exercising the power to frame the terms and conditions for determination of tariff under Section 178, the Commission has to be guided by the factors specified in Section 61. It is open to the Central Commission to specify terms and conditions for determination of tariff even in the absence of the regulations under Section 178. However, if a regulation is made under Section 178, then, in that event, framing of terms and conditions for determination of tariff under Section 61 has to be in consonance with the regulation under Section 178. One must keep in mind the dichotomy between the power to make a regulation under Section 178 on one hand and the various enumerated areas in Section 79(1) in which the Central Commission is mandated to take such measures as it deems fit to fulfil the objects of the 2003 Act.
.....”

It clearly emerges from the above judgement that the Central Commission can specify the terms and conditions of tariff even in the absence of the regulations. Since no regulation was specified for determination of tariff of the communication system and the ULDC system, the Commission determined the tariff of these assets during the period 2004-09 on levelised basis by adopting some of the parameters of 2004 tariff regulations. We have decided to continue with the levelised tariff for the existing assets in the absence of any provision in 2009 regulations regarding determination of tariff of communication system and ULDC system of the petitioner. For the new assets, the tariff will be decided as per the regulations for communication systems to be framed...”

8. Proviso 6(iii) of the 2014 Tariff Regulations provides that the tariff of the existing communication system forming part of transmission system shall be as per the methodology followed by the Commission prior to 1.4.2014. Further, the SCADA system has been made part of the communication system for the purpose of tariff determination for the period from 1.4.2014 till 31.3.2019. Relevant portion of the Regulation 3(11) of the 2014 Tariff Regulations is extracted as under:

(11) “Communication System” includes communication system of Power Grid Corporation of India Ltd. covered under Unified Load Dispatch and Communication (ULD&C) scheme, SCADA, Wide Area Measurement (WAMS), Fibre Optic Communication system, Remote Terminal Unit, Private Automatic Branch Exchange, Radion communication system and auxiliary power supply system etc used for managing inter-State transmission of electricity.”

9. The petitioner had filed Petition No. 32/MP/2011 seeking regulatory approval for implementation of replacement/up-gradation/expansion of the existing SCADA/EMS systems for SLDCs in the Northern Region. The Commission vide order dated 28.12.2011 in Petition No. 32/MP/2011 observed that there is no need for regulatory approval for replacement/up-gradation/expansion of SCADA/EMS system for SLDCs of Northern Region since all the beneficiaries have consented for the same and PGCIL was granted liberty to process with the implementation as per the agreement with the beneficiaries at NRPC since the project was essential for smooth and efficient operation of Power System. With regard to other regions, the Commission had observed that PGCIL can implement the schemes as per the agreements with the beneficiaries in the respective RPCs.

10. According to the petitioner, ULDC Schemes were established by PGCIL on regional basis for providing SCADA/EMS and Communication system for management of the regional grids and the same were brought into commercial operation in various regions from the years 2002 to 2006. The investment made in SCADA/EMS system for SLDCs is being recovered by the petitioner from the constituents through levelised tariff over a period of 15 years as approved by the Commission vide various true-up orders for the various petitions for the period of 2009-14. However, substantial technological obsolescence, rapid changes in information technology and rapid growth in power system has necessitated the up-gradation/expansion of existing RLDCs and SLDCs. This has resulted in a peculiar situation wherein the investments made by the petitioner for SCADA/EMS for SLDC scheme are

still to be recovered fully as the schemes have not completed the useful life of fifteen years. The petitioner has requested for being allowed to recover accelerated depreciation to match the revised useful life for the existing SCADA/EMS system.

11. It is noted that during the tariff periods 2001-04, 2004-09 and 2009-14, fees and charges of ULDC Scheme and Communication assets of the petitioner were determined in the absence of any regulations on the basis of the principles decided by the Commission. Accordingly, the fees and charges of the above assets are being worked out taking into consideration the following:

- (a) Annual capital cost recovery is based on the levelised tariff;
- (b) Levelised tariff is in lieu of depreciation, interest and return on equity;
- (c) For the purpose of levelisation, discounting factor equal to ROE for equity portion and weighted average interest rate on loan for debt portion is being applied;
- (d) Recovery Factor: $\frac{i(1+i)^n}{(1+i)^n-1}$
n= period
- (e) Interest on Working Capital (IWC) and Operation and Maintenance (O & M) are not being levelised.

12. The Commission vide order dated 8.12.2011 in Petition No. 68/2010 allowed accelerated depreciation of Microwave links as per government policy where they were replaced before completion of their useful life of 15 years. Considering the dates of replacement (year 2011-12) of Microwave links by OPGW links, the useful life of the Microwave portion of the assets

was reduced to 6-9 years instead of 15 years and accordingly, the recovery factor was worked out. Relevant portion of the said order dated 8.12.2011 is extracted as under:

“(E) Life of the Assets and Depreciation:

31. The petitioner has submitted that Digital Microwave systems were installed under the ULDC scheme and tariff for the assets is being recovered considering 15 year as useful life of the assets. Since the petitioner is required to replace these assets under Force Majeure condition i.e. change in government policy which is beyond the control of the petitioner, the useful life of the assets has been reduced substantially to 6 to 9 years instead of 15 years. The petitioner has requested for being allowed to recover accelerated depreciation to match the revised useful life for the Digital Microwave links till the end of the year 2011. Moreover, since this equipment shall become redundant, the petitioner has submitted that the credit to be passed on to the beneficiaries shall be equal to the salvage value of the Digital Microwave links at the end of the useful life of these equipments.

35. As we have already clarified, we are not inclined to relax any of the provisions of 2009 regulations. The submissions of the petitioner shall be kept in view while framing the regulations for the new communication assets. For existing assets excluding Microwave links, the methodology adopted for ULDC schemes shall be continued till the period already specified in the respective orders for ULDC Scheme in different regions. For Microwave Links, accelerated depreciation shall be considered keeping in view the reduced life of these assets as per decision of MoC/DoT.”

13. As per Regulation 14 of the RLDC Fees and Charges Regulations, the salvage value for IT equipments and software shall be considered as NIL and 100% value of the assets shall be considered depreciable with the following depreciation rates:

- (i) IT Equipment : 15%
- (ii) Software : 30%

As per the depreciation rates allowed in RLDC Fees and Charges Regulations, the charges for SCADA/EMS system for RLDCs, which have

been retained by POSOCO after its formation, shall be fully recovered by RLDCs before its replacement. Regulation 27 (5) of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 provides that the depreciation rate for IT equipment and software as 15%. However, the above regulations are not applicable to existing assets commissioned prior to 1.4.2014.

14. In the light of our decision in order dated 8.12.2011 in Petition No. 68/2010, the Commission in exercise of its power under Section 79(1)(d) of the Act can determine the tariff of the inter-State transmission system even in the absence of any regulations in accordance with the principle enunciated by the Hon'ble Supreme Court in PTC India Ltd. Vs Central Electricity Regulatory Commission [JT 2010 (3) SC 1]. Considering the existing SCADA/EMS system for SLDC retained by Powergrid as 95% depreciable with 5% salvage value, the Commission is of the view that wherever, the SCADA/EMS system of SLDC retained by Powergrid are replaced by new SCADA/EMS system, before completion of their useful life, the unrecovered charges shall be recovered as accelerated depreciation matching with the commissioning schedule of the new SCADA system.

15. The petitioner has prayed to exercise the power to relax and power to remove difficulties vested under Regulations 54 and 55 of the 2014 Tariff Regulations for recovery of the unrecovered charges of SCADA/EMS system of SLDCs which have been replaced. In view of our decision in para 14 above, there is no requirement to relax the provisions of the 2014 Tariff

Regulations in order to allow recoveries of accelerated depreciation for the existing communication assets.

16. The petitioner has filed petitions for true-up of the fees and charges for the period 2009-14 and determination of the fee and charges for the period 2014-19 for the ULDC scheme under PGCIL portions. Orders in the petitions pertaining to Southern Region, Western Region and Northern Region (545/TT/2014, 11/TT/2015 and 19/TT/2015) have been issued and orders in the petition for NER and ER (17/TT/2015 and 39/TT/2015) are in the process of being issued. The Petitioner is directed to file fresh petitions in those cases where orders have been issued and amend the petitions where order have not been issued, incorporating the input of accelerated depreciation of SCADA/EMS matching with the commissioning of the new SCADA system covered in the petitions for the respective regions. While filing the petitions/ amended petitions, the Petitioner shall segregate the existing assets where tariff was determined in terms of order in Petition No. 68/2010 and the new assets which have been considered during 2014-19 period in accordance with the 2014 Tariff Regulations.

17. With the above, the petition is disposed of.

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

sd/-
(A.S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson