

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 37/RP/2016
in Petition No. 534/TT/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 : 31.07.2017

In the matter of:

Review petition under Section 94(1)(f) of Electricity Act, 2003 with Regulation 103 of Central Electricity Regulatory Commission (Conduct of Business) Regulations 1999, seeking review of the order dated 12.5.2016 in Petition No. 534/TT/2014.

And in the matter of:

Power Grid Corporation of India Limited,
Saudamini, Plot No. 2,
Sector 29, Gurgaon-122001

.....**Petitioner**

Vs

1. Karnataka Power Transmission Corporation Ltd. (KPTCL),
Kaveri Bhawan,
Bangalore-560 009
2. Transmission Corporation of Andhra Pradesh Ltd. (APTRANCO),
Vidyut Soudha,
Hyderabad-500 082
3. Kerala State Electricity Board (KSEB),
Vaidyuthi Bhavanam,
Pattom, Thiruvananthapuram-695 004
4. Tamil Nadu Generation and Distribution Corporation Ltd.
NPKRR Maaligai, 800,
Anna Salai, Chennai-600 002



5. Electricity Department
Government of Goa
Vidyuti Bhawan, Panji, Goa-403001
 6. Electricity Department,
Government of Pondicherry,
Pondicherry-605 001
 7. Eastern Power Distribution Company of Andhra Pradesh Ltd. (APEPDCL),
APEPDCL, P&T Colony, Seethmmadhara,
Vishakhapatnam, Andhra Pradesh
 8. Southern Power Distribution Company of Andhra Pradesh Ltd. (APSPDCL),
Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta,
Tirupati-517 501
 9. Central Power Distribution Company of Andhra Pradesh Ltd. (APCPDCL),
Corporate Office, Mint Compound,
Hyderabad-500 063
 10. Northern Power Distribution Company of Andhra Pradesh Ltd. (APNPDCL),
Opp. NIT Petrol Pump, Chaitanyapuri, Kazipet,
Warangal-506 004
 11. Bangalore Electricity Supply Company Ltd. (BESCOM),
Corporate Office, K. R. Circle,
Bangalore-560 001
 12. Gulbarga Electricity Supply Company Ltd. (GESCOM),
Station Main Road, Gulbarga.
Karnataka
 13. Hubli Electricity Supply Company Ltd. (HESCOM),
Navanagar, PB Road,
Hubli, Karnataka
 14. MESCOM
Corporate Office, Paradigm Plaza,
AB Shetty Circle,
Mangalore-575 001
 15. Chamundeswari Electricity Supply Corporation Ltd. (CESC),
927, L J Avenue, Ground Floor,
New Kantharaj Urs Road,
Saraswaturam, Mysore-570 009
-Respondents



For Petitioner: Ms. Swapna Seshadri, Advocate, PGCIL
Shri Jasbir Singh, PGCIL
Shri M.M.Mondal, PGCIL
Shri S.K. Venkatesan, PGCIL

For Respondents: Shri S. Vallinayagam, Advocate, TANGEDCO

Order

The instant Review Petition has been filed by Power Grid Corporation of India Limited (PGCIL) under Section 94(1)(f) of the Electricity Act, 2003 (the Act) read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of the order dated 12.5.2016 in Petition No. 534/TT/2014, wherein the Commission determined the transmission tariff for A) Kurnool-Thiruvalam 765 kV D/C line, B) Extension of 765 kV Sub-station at Kurnool and up-gradation of 400 kV Sub-station at Thiruvalam to 765/400 kV with 2x1500 MVA, 765/400 kV transformers and C) 1x240 MVAR line reactor at both ends of each circuit of Kurnool-765 kV D/C for the period starting from the date of commercial operation to 31.3.2014 for 2014-19 period.

2. Initially, the Review Petitioner had claimed tariff in Petition No 534/TT/2014 as a single asset from the anticipated date of commercial operation (COD). Later, vide affidavit dated 31.8.2015, submitted that the assets were split into two and were commissioned on 29.11.2014 and 21.3.2015. The details of elements and their actual dates of commercial operation are as under:-

Particulars	SCOD	Anticipated COD	Actual COD
Asset-I: Kurnool-Thiruvalam 765 kV D/C line along with associated bays and equipment both at Kurnool and Thiruvalam Sub-stations	1.12.2014	1.12.2014	29.11.2014



(charged at 400 kV) and 2x240 MVAR, 765 kV line reactor at both Kurnool and Thiruvallam Sub-stations along with associated bays and equipment			
Asset-II: up-gradation of 400 kV Sub-station at Thiruvallam to 765/400 kV with 2x1500 MVA, 765/400 kV transformers			21.3.2015

3. As per Investment Approval (IA) dated 31.8.2012, the instant transmission assets were scheduled to be commissioned within 27 months from the date of investment approval, i.e. by 1.12.2014 against this instant transmission assets were commissioned on 29.11.2014 and 21.3.2015. Thus, there is no time over-run in case of Asset-I but there is time over-run of 3 months and 22 days in the commissioning of Asset-II, which was not allowed by the Commission. Further, the Review Petitioner did not submit the concerned RPC certificate. Accordingly, additional return on equity of 0.5% was not allowed as the entire scheme was not completed as provided under proviso (i) of Regulation 24(2) of the 2014 Tariff Regulations. The relevant extract of the impugned order is as under:-

“39. We have considered the submissions of TANGEDCO and the Review Petitioner. It is observed that although all the elements, except for ICT bays of 400 kV and 765 kV bays, which are the parts/elements of both Asset-I and Asset-II, have been completed within timeline specified in 2014 Tariff Regulations. As per Regulation 24(2)(i) of the 2014 Tariff Regulations, additional RoE is to be considered only if the project as a whole has been commissioned within the timeline specified in Appendix-I, but with an exception vide Regulation 24(2)(iii) which specifies that it can be considered in a case wherein it has been certified by RPC/NPC that the element of a project completed within the time specified will benefit the system operation in the regional/national grid. However, the Review Petitioner has not submitted any such certificate as specified and hence we are not inclined to allow the Review Petitioner’s claim for additional RoE.”

4. Aggrieved by the above said order, the Review Petitioner has filed the instant review petition on following two aspects:-



- (a) Allowing additional Return on Equity of 0.5% for early commissioning of the project, as provided under proviso (i) of Regulation 24(2) of the 2014 Tariff Regulations.
- (b) Computational errors which have resulted in excess deductions made with regard to IDC and IEDC for both the assets.

Grounds for Review

5. Gist of submissions made by the Review Petitioner are given below:-

- a) The transmission scheme consisted of several elements and each of them has been commissioned within the timeline specified in the 2014 Tariff Regulations.
- b) As per the 2014 Tariff Regulations, the activity having maximum time period shall be considered for the scheme as a whole. The timeline considered for Kurnool-Thiruvalam 765 kV D/C line is 40 months. All the assets including ICT bays of 400 kV and 765 kV bays both for Asset-I and II were commissioned by 21.3.2015 i.e. within 31 months, which is within the maximum time frame of 40 months specified in Appendix-I of the 2014 Tariff Regulations.
- c) The 2014 Tariff Regulation clearly provides that the entire project has to be commissioned within the timeline specified in the respective regulation. The timelines have been considered as per 2014 Tariff Regulations and not as per investment approval. In the present case, even 400 kV bays and 765 kV bays have been commissioned within the outer time frames specified in 2014



Tariff Regulations. Hence, the certificate from the RPC/NPC was not submitted by the Review Petitioner.

- d) Additional Return on Equity since a certificate from RPC/NPC was not submitted by the Review Petitioner. The case of the Review Petitioner is covered under proviso (i) of Regulation 24(2) and (ii) and not under proviso (iii) Regulation 24(2). Since, the entire project was commissioned within the timeframe mentioned in the 2014 Tariff Regulations, there is no necessity to submit the RPC/NRPC certificate. Disallowance of additional return on equity on the ground that it is not admissible under proviso (iii) of Regulation 24(2) is not correct and is an error apparent on the face of record.
- e) An amount of ₹4447.67 lakh of cash IDC was discharged till COD of Asset-I. The Commission has allowed ₹4444.13 lakh thereby deducting ₹3.54 lakh on account of delay in commissioning, whereas there is no delay in commissioning of Asset-I.
- f) In case of Asset-II, the IDC claimed as per Auditor certificate was ₹972.49 lakh and cash IDC discharged up to COD was ₹863.54 lakh. However, the Commission allowed only ₹735.10 lakh for cash IDC and an amount of ₹128.44 lakh was deducted on pro-rata basis from cash IDC on account of delay which is in excess of ₹26.35 lakh as compared to actual pro-rata amount for the delay period.



g) IEDC amounting to ₹1528.46 lakh and ₹300.59 lakh in case of Asset-I and Asset-II respectively was discharged as on their respective COD(s) (i.e. 29.11.2014 and 21.3.2015). The Commission proceeded on the basis that entire IEDC was discharged as on COD of Combined Assets. It resulted in disallowance of ₹300.59 lakh on account of delay in commissioning of Asset-II. However, pro-rata IEDC for delayed period of 3 months 22 days amounting to ₹35.53 lakh should have been reduced from the capital cost instead of ₹300.59 lakh which is in excess of ₹265.06 lakh.

6. The Review Petition was admitted on 19.10.2016 and notices were issued to the respondents directing to submit their replies. TANGEDCO, Respondent No. 4, has filed reply vide affidavit dated 16.11.2016. The Review Petitioner has filed the rejoinder to the reply of TANGEDCO vide affidavit dated 5.12.2016. The issues raised by TANGEDCO and the clarification given by the Review Petitioner are dealt in the relevant paragraphs of this order.

Admissibility of additional Return on Equity of 0.5% under Regulation 15

7. During the hearing on 4.10.2016, learned counsel for the Review Petitioner submitted that the instant assets are eligible for additional return on equity of 0.5% as they have been commissioned within the timeline specified in the 2014 Tariff Regulations however, the same was disallowed by the Commission.

8. TANGEDCO has submitted that the Review Petitioner had commissioned the Kurnool -Thiruvalem 765 kV D/C line along with associated bays and equipments both at Kurnool and Thiruvalem Sub-stations at 400 kV level on 29.11.2014 without



commissioning the essential elements at Thiruvallam and Kurnool Sub-stations to put the system to beneficial use. TANGEDCO has submitted that the 765 kV lines were commissioned at 400 kV level without commissioning of 400 kV and 765 kV ICT bays. The Review Petitioner has not furnished the certificate from SRPC as directed the Commission. The Review Petitioner should have proved that the 765 kV line charged at 400 kV could be put into beneficial use even without the bays in service. However, they neither took up the issue with SRPC and deliberated with beneficiaries nor furnished the document required as per 2014 Tariff Regulations.

9. TANGEDCO has further submitted that the Review Petitioner usually submits insufficient data and documents along with their original petitions and seeks remedy after award of tariff order by the Commission which causes unwarranted inconvenience in terms of public money and time. The denial of additional RoE is not an error on the face of the record. The Review Petitioner's prayer for additional RoE may not be allowed. The Review Petitioner has claimed tariff of 765 kV lines charged at 400 kV level based on the capital cost of 765 kV assets. As such, as provided in the Statement of Reason annexed to Central Electricity Regulatory Commission (Sharing of Transmission charges and losses) Regulations, 2010(2010 Sharing Regulations), the Review Petitioner is eligible to claim tariff of the 765 kV lines charged at 400 kV based on the average cost of ₹/circuit kilometer of 400 kV (quad) lines. However, the Review Petitioner has not made the claim as per the procedure laid down in the SOR of the 2010 Sharing Regulations. TANGEDCO requested to revise the tariff awarded in the order as per the above said SOR.



10. In response, the Review Petitioner has submitted that the 765 kV D/C line was charged along with the bays and equipments both at Kurnool and Thiruvallur at 400 kV level on 29.11.2014 and not at 765 kV level. TANGEDCO has contended that the Review Petitioner should have produced an SRPC Certificate that such charging of the 765 kV line at 400 kV is beneficial to the system, which is entirely incorrect. This submission was made by the TANGEDCO even in the main petition but was not accepted by the Commission. In the impugned order, it was proceeded on the basis that the Review Petitioner did not commission the 400 kV and 765 kV bays which are parts of both Asset-I and Asset-II within the timeframes specified in the 2014 Tariff Regulations. This is an error apparent, since the Note (i) in Appendix I to the 2014 Tariff Regulations clearly provides that the activity having maximum time period shall be considered for the scheme as a whole. Further, it is not possible for the Review Petitioner to commission ICTs without commissioning of bays. This is because both are related to each other and have to be commissioned simultaneously.

11. The Review Petitioner has further submitted that in the case of the subject transmission assets, the asset having the maximum time frame is Kurnool-Thiruvallur 765 kV D/C line for which the time period given is 40 months. All the assets including the ICT bays of 400 kV and 765 kV bays both for Assets I and II have been commissioned by 21.3.2015 i.e. within 31 months. This date is within the maximum time frame of 40 months specified in Appendix I. The Review Petition has submitted that the review petition was filed as it was held that the bays were commissioned outside the timeframe given in the 2014 Tariff Regulations. TANGEDCO is making a different submission that SRPC Certificate should have been produced by the Review



Petitioner. The SRPC Certificate was not placed on record as the Review Petitioner's case was covered by proviso (i) and (ii) of Regulation 24(2) of the 2014 Tariff Regulations.

12. The Review Petitioner has submitted that TANGEDCO is creating confusion since the assets were charged at 400 kV level on 29.11.2014 and 765 KV level on 21.3.2015. As regards charging at 400 kV level is concerned, the certificate was issued by SRPC on 24.3.2016. Further, the Review Petitioner charged the line, the bays and all the equipments at 765 kV level on 20.3.2015 and 21.3.2015. Accordingly, the assets were commissioned in 31 months from the date of investment approval and it is within the outer time frame of 40 months specified in the 2014 Tariff Regulations. The Review Petitioner has submitted that additional RoE is admissible on the entire system from 21.3.2015. The Review Petitioner has submitted SRPC Certificate for the period from 29.11.2014 to 21.3.2015 has also been placed on record. The Review Petitioner has submitted that additional RoE is an incentive for early commissioning and the commissioning of transmission asset was established with the power flow and claim was made on the basis that it has achieved commercial operation after power flow and issuance of RLDC certificate on 29.11.2014. The Review Petitioner has also claimed the commercial operation of the entire system on 21.3.2015 when all the assets have been charged at 765 kV level. The Review Petitioner has submitted that it was charged a 765 kV system at 400 kV voltage due to technical reasons with the approval of CEA dated 29.10.2014. The Review Petitioner has submitted that the 765 kV line is in service at 765 kV level since 20.3.2015. The Review Petitioner has submitted that the project was completed within 40 months and is eligible for additional



RoE and as such, Para 3.3.32 of the Statement of Reasons annexed to the 2010 Sharing Regulations is not applicable in the present case.

13. We have considered the submissions of the Review Petitioner and TANGEDCO and perused documents on record. It is observed the complete scope of the project was completed as per Appendix-I of Regulation 24 of the 2014 Tariff Regulations. Additional RoE is not applicable for extension of Sub-station and applicable only for new Sub-station. The instant case pertains to up-gradation of an existing Sub-station, additional RoE shall not be applicable for ICT bays (400 kV and 765 kV). For other elements 0.5% RoE shall be applicable w.e.f 21.3.2015. Accordingly, claim of additional RoE of 0.5% by the Review Petitioner is admissible for all the elements of both assets except for ICT bays (400 kV and 765 kV Sub-stations). However, the capital cost of Asset-I and Asset-II, submitted by the Review Petitioner includes cost of ICT bays. Hence, it is not possible to work out additional RoE for Asset-I and Asset-II excluding ICT bays. Therefore, the petitioner is directed to submit the segregated capital cost and funding structure for ICT bays at the time of filing trueing up petition.

Issue related to computational errors

14. The Review Petitioner submitted that in case of Asset-I, an amount of ₹4447.67 lakh cash IDC was discharged till COD. However, the Commission allowed ₹4444.13 lakh deducting ₹3.54 lakh on account of delay in commissioning, whereas there is no delay in commissioning of Asset-I. In case of Asset-II, the Review Petitioner has submitted that IDC claimed as per Auditor certificate is ₹972.49 lakh and cash IDC discharged up to COD is ₹863.54 lakh. The Commission allowed only ₹735.10 lakh for



cash IDC. An amount of ₹128.44 lakh was deducted on pro-rata basis from cash IDC on account of delay which is in excess of ₹26.35 lakh as compared to actual pro-rata amount for the delay period.

15. The Review Petitioner has submitted that the IEDC claimed for Asset-I and Asset-II amounting to ₹1528.46 lakh and ₹300.59 lakh respectively was discharged as on their respective COD(s) (i.e. 29.11.2014 and 21.3.2015). However, the Commission proceeded on the basis that entire IEDC was discharged as on COD of Combined Assets. It resulted in disallowance of ₹300.59 lakh on account of delay in commissioning of Asset-II. However, pro-rata IEDC for delayed period of 3 months 22 days amounting to ₹35.53 lakh should have been reduced from the capital cost instead of ₹300.59 lakh which is in excess of ₹265.06 lakh.

16. TANGEDCO has submitted that the Review Petitioner does not submit the required information and TANGEDCO has been consistently raising the issue of not providing detailed statement of IEDC actually incurred by the Review Petitioner. TANGEDCO has submitted that the Review Petitioner is not at all concerned about the legal requirement to submit the essential documents and is not transparent in the tariff claim process. In this instant case also, the Review Petitioner has not submitted the detailed expenditure statement. TANGEDCO has requested to disallow the entire IEDC, in the absence of such detailed statement, already approved in the order dated 12.5.2016.

17. In response, the Review Petitioner has denied TANGEDCO's contention that the Review Petitioner has not furnished the details of the IEDC actually incurred by it. The



Review Petitioner has submitted that the details were given in Form 12A filed alongwith the affidavit dated 31.8.2015 and the entire IEDC claimed for Asset I and Asset II was discharged as on COD. IEDC claimed in respect of Asset I was ₹1528.46 lakh and in respect of Asset II was ₹300.59 lakh and the same was discharged on their respective CODs. However, the Commission in Para 20 of the impugned order has proceeded on the basis that the entire IEDC was discharged as on COD of Asset II i.e 31.3.2015 and thus the entire IEDC of ₹1528.46 lakh in respect of Asset I was considered as on COD of Asset II and the same was deducted from the capital cost of Asset I. The Review Petitioner has submitted that the Commission disallowed the entire IEDC of ₹300.50 lakh in respect of Asset II on account of the delay in commissioning. However, it should have disallowed only the pro-rata IEDC for the period of delay not condoned i.e. 3 months and 22 days, which amounts to ₹35.53 lakh in respect of Asset II. Accordingly, the IEDC of ₹265.06 lakh was excessively deducted while comparing to actual pro-rata amount for the delay period.

Interest during Construction

18. We have considered the submission of petitioner and TANGEDCO. In case of Asset I, the Review Petitioner had claimed IDC on cash basis amounting ₹4447.67 lakh. Based on the information submitted by the Review Petitioner i.e. date of drawl and amount of loan available in Form-9C, the IDC of ₹4444.13 lakh, on cash basis, was worked out and allowed for Asset I. The difference ₹3.54 lakh (i.e. 4447.67 lakh minus 4444.13 lakh) was considered as an excess claim, accordingly, it was disallowed in the impugned order dated 12.5.2016. Therefore, the disallowed IDC of ₹3.54 lakh was not on account of delay in commissioning the assets, as interpreted by the Review



Petitioner. Hence, there is no error in the amount of IDC allowed for Asset I in the impugned order dated 12.5.2016.

19. In case of Asset-II, the Review Petitioner claimed IDC on cash basis amounting ₹972.49 lakh. Based on the date of drawl and amount of loan submitted by the Review Petitioner, the IDC on cash basis was worked out up to schedule date of commercial operation (i.e.1.12.2014), after considering time over-run of 3 months and 22 days, amounting ₹735.10 lakh. Thus, the difference between claimed and allowed IDC amounting ₹237.39 lakh (i.e. ₹972.49 lakh - ₹735.10 lakh) was considered as IDC for time over-run period and not considered for the purpose of computation of tariff. Therefore, the allowable IDC after considering time over-run was not determined on pro-rata basis as interpreted by the Review Petitioner. Hence, there is no error in the IDC allowed for Asset II in the impugned order dated 12.5.2016.

Incidental Expenditure During Construction

20. The Commission, in the impugned order, did not consider the IEDC on pro-rata basis. In the absence of year wise and asset wise IEDC discharge details as on their respective COD(s), it was presumed that the entire IEDC of ₹1829.05 lakh was discharged on COD of combined assets i.e. on 21.3.2015. Accordingly, in case of Asset I, IEDC amounting ₹1528.46 lakh was not considered as on COD of Asset-I i.e. 29.11.2014 but the same was allowed from the COD of combined Asset i.e. on 21.3.2015. As a result, the IEDC of Asset I amounting ₹1528.46 lakh was not considered for the period from 29.11.2014 to 20.3.2015 for determination of tariff in the impugned order.



21. In case of Asset II, similarly, in the absence of year wise and asset wise IEDC discharge details, it was presumed that the claimed IDC of ₹300.59 lakh was pertaining to the period from SCOD to actual COD, accordingly the entire IEDC was disallowed towards the delayed period of 3 months 22 days in the impugned order. Therefore, there is no error in computation of IEDC.

22. The Review Petitioner, vide affidavit dated 9.1.2017 in the instant review petition has submitted the details of IEDC in Form-12A separately for Asset-I and Asset-II as ₹1528.46 lakh and ₹300.59 lakh respectively, which were not available at the time of finalizing tariff in the main petition. The Review Petitioner has also submitted that the entire IEDC was discharged as on their respective COD(s). Based on the discharge details of IEDC submitted by the Review Petitioner, the IEDC for Asset I and Asset II would be reviewed from the respective CODs on receipt of the segregated capital cost including IDC and IEDC for ICT bays at the time truing up.

23. In view of the above, the Review Petition is partly allowed. The consequential effect of this order shall be given at the time of truing up.

24. Review Petition No. 37/RP/2016 is disposed of in terms of the above.

sd/-
(M. K. Iyer)
Member

sd/-
(A. S. Bakshi)
Member

sd/-
(A. K. Singhal)
Member

sd/-
(Gireesh B. Pradhan)
Chairperson

