

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 43/RP/2017  
in Petition No. 67/TT/2015**

**Coram:**

**Shri P.K. Pujari, Chairperson**

**Shri A. K. Singhal, Member**

**Shri A. S. Bakshi, Member**

**Dr. M. K. Iyer, Member**

**Date of order: 12<sup>th</sup> of July, 2018**

**In the matter of**

Review Petition No. 43/RP/2017 seeking review of order dated 31.8.2017 in Petition No. 67/TT/2015.

**And**

**In the matter of**

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

**... Review Petitioner**

**Vs.**

- 1) Assam Electricity Grid Corporation Limited  
(Formerly Assam State Electricity Board)  
Bijulee Bhawan, Paltan Bazar  
Guwahati-781001  
Assam
- 2) Meghalaya Energy Corporation Limited  
(Formerly Meghalaya State Electricity Board)  
Short Round Road, "Lumjingshai"  
Shillong-793001  
Meghalaya
- 3) Government of Arunachal Pradesh  
Vidyut Bhawan, Itanagar-791111  
Arunachal Pradesh



- 4) Power & Electricity Department  
Government of Mizoram  
Aizwal, Mizoram
- 5) Manipur State Electricity Distribution Company Limited  
(Formerly Electricity Department, Govt. of Manipur)  
Electricity Complex, Patta No. 1293 Under 87 (2)  
Khwai Bazar, Keishampat  
District-Imphal West, Manipur-795001
- 6) Department of Power  
Government of Nagaland  
Kohima, Nagaland
- 7) Tripura State Electricity Corporation Limited  
Bidyut Bhawan, North Banamalipur  
Agartala, Tripura (W)-700001, Tripura
- 8) Himachal Pradesh State Electricity Board  
Vidyut Bhawan, Shimla-171004 (HP)
- 9) Punjab State Power Corporation Limited  
Thermal Shed T-1A, Patiala
- 10) Haryana Power Purchase Centre  
2<sup>nd</sup> Floor, Shakti Bhawan, Sector-6  
Panchkula (Haryana)-134109
- 11) Power Development Department  
Janipura Grid Station  
Jammu (Tawi)-180007
- 12) Uttar Pradesh Power Corporation Limited  
10<sup>th</sup> Floor, Shakti Bhawan Extn.,  
14, Ashok Marg, Lucknow-226001
- 13) Delhi Transco Limited  
Shakti Sadan, Kotla Road (Near ITO)  
New Delhi
- 14) Chandigarh Administration  
Sector-9, Chandigarh
- 15) Uttarakhand Power Corporation Limited  
Urja Bhawan, Kaswali Road, Dehradun



- 16) Rajasthan Power Procurement Centre  
Vidyut Bhawan, Janpath, Jaipur
- 17) Ajmer Vidyut Vitran Nigam Limited  
400 kV GSS Building  
Ajmer Road, Heerapura, Jaipur
- 18) Jodhpur Vidyut Vitran Nigam Limited  
400kV GSS Building  
Ajmer Road, Heerapura, Jaipur
- 19) Jaipur Vidyut Vitran Nigam Limited  
400 kV GSS Building  
Ajmer Road, Heerapura, Jaipur
- 20) North Central Railway  
Allahabad
- 21) BSES Yamuna Power Limited  
Shakti Kiran Building, Karkardooma  
Delhi-110092
- 22) BSES Rajdhani Power Limited  
BSES Bhawan, Nehru Place  
New Delhi
- 23) Tata Power Delhi Distribution Limited  
33 kV Substation Building, Hudson Lane  
Kingsway Camp, North Delhi-110009
- 24) New Delhi Municipal Council  
Palika Kendra, Sansad Marg  
New Delhi-110001
- 25) Madhya Pradesh Power Management Company Limited  
Shakti Bhawan, Rampur  
Jabalpur-482008
- 26) Maharashtra State Electricity Distribution Company Limited  
Prakashgad, 4<sup>th</sup> Floor  
Andheri (East), Mumbai-400052
- 27) Gujarat Urja Vikas Nigam Limited  
Sardar Patel Vidyut Bhawan  
Race Course Road, Vadodara-390007



- 28)Electricity Department  
Government of Goa, Vidyut Bhawan  
Panaji, Near Mandvi Hotel  
Goa-403001
- 29)Electricity Department  
Administration of Daman & Diu  
Daman-396210
- 30)Electricity Department  
Administration of Dadra Nagar Haveli  
U.T. Silvassa-396210
- 31)Chhattisgarh State Electricity Board  
P.O. Sunder Nagar, Dangania, Raipur  
Chhattisgarh-492013
- 32)Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Limited  
3/54, Press Complex, Agra-Bombay Road  
Indore-452008
- 33)Karnataka Power Transmission Corporation Limited  
(KPTCL), Kaveri Bhavan  
Bangalore-560009
- 34)Transmission Corporation of Andhra Pradesh Limited  
(APTRANSCO), Vidyut Soudha  
Hyderabad-500082
- 35)Kerala State Electricity Board (KSEB)  
Vaidyuthi Bhavanam, Pattom  
Thiruvananthapuram-695004
- 36)Tamil Nadu Electricity Board (TNEB)  
NPKRR Maaligai, 800, Anna Salai  
Chennai-600002
- 37)Electricity Department  
Government of Pondicherry  
Pondicheery-605001
- 38)Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL)  
P&T Colony, Seethmmadhara  
Vishakhapatnam, Andhra Pradesh



- 39) Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL)  
Srinivasasa Kalyana Mandapam Backside  
Tiruchanoor Road, Kesavayana Gunta  
Tirupati-517501, Chittoor District, Andhra Pradesh
- 40) Central Power Distribution Company of Andhra Pradesh Limited (APCPDCL)  
Corporate Office, Mint Compound  
Hyderabad-500063, Andhra Pradesh
- 41) Northern Power Distribution Company of Andhra Pradesh Limited (APNPDCL)  
Opposite NIT Petrol Pump  
Chaitanyapuri, Kazipet  
Warangal-506004, Andhra Pradesh
- 42) Bangalore Electricity Supply Company Limited (BESCOM)  
Corporate Office, K.R. Circle  
Bangalore-506001, Karnataka
- 43) Gulbarga Electricity Supply Company Limited (GESCOM)  
Station Main Road  
Gulbarga, Karnataka
- 44) Hubli Electricity Supply Company Limited (HESCOM)  
Navanagar, PB Road, Hubli, Karnataka
- 45) Mescom Corporate Office  
Paradigm Plaza, AB Shetty Circle  
Mangalore-575001, Karnataka
- 46) Chamundeswari Electricity Supply Corporation Limited (CESC)  
# 927, L J Avenue, Ground Floor  
New Kantharaj Urs Road  
Saraswatipuram, Mysore-570009  
Karnataka
- 47) Telangana state PC Committee Co-ordination Committee  
TSPCC, TSTransco, R. No. 547/A Block  
Somajiguda, Khairathabad, Hyderabad-500082  
Andhra Pradesh
- 48) Andhra Pradesh Power Co-ordination Committee  
Room No. 547, 5th Floor, Block-A  
Vidyut Soudha, Somajiguda, Khairathabad  
Hyderabad-500082, Andhra Pradesh



- 49) Bihar State Electricity Board  
Vidyut Bhawan, Bailey Road  
Patna-800001
- 50) West Bengal State Electricity Distribution Company Limited  
Bidyut Bhawan, Bidhan Nagar  
Block DJ, Sector-II, Salt Lake City  
Kolkata-700091
- 51) Grid Corporation of Orissa Limited  
Shahid Nagar  
Bhubaneswar-751007
- 52) Damodar Valley Corporation  
DVC Tower, Maniktala  
Civil Centre, VIP Road  
Kolkata-700054
- 53) Power Department  
Govt. of Sikkim, Gangtok-737101
- 54) Jharkhand State Electricity Board  
In front of Main Secretariat  
Doranda, Ranchi-834002
- 55) North Bihar Power Distribution Company Limited  
Vidyut Bhawan, Bailey Road  
Patna, Bihar-800001
- 56) South Bihar Power Distribution Company Limited  
Vidyut Bhawan, Bailey Road  
Patna, Bihar-800001
- 57) Tata Steel Limited  
Generation Office (W-175), Jamshedpur
- 58) Maithan Power Limited  
MA-5, Gogna Colony  
Maithan Dam Post Office  
District Dhanbad-828207, Jharkhand
- 59) IND Barath Energy (Utkal) Limited  
Plot No. 30-A, Road No. 1  
Film Nagar, Jubilee Hills  
Hyderabad-500033, Andhra Pradesh



- 60)AD Hydro Power Limited  
Bhilwara Towers, A-12, Sector-1  
Noida-201301, Uttar Pradesh
- 61)Lanco Budhil Power Private Limited  
Plot No. 397, Udyog Vihar, Phase-III  
Gurgaon, Haryana
- 62)Himachal Sorang Power Private Limited  
D-7, Sector-1, Lane-1, 2nd Floor  
New Shimla, Shimla-171009, Himachal Pradesh
- 63)MB Power (Madhya Pradesh) Limited (MBPMPL)  
239, Okhla Industrial area, Phase-III  
New Delhi-110020
- 64)Himachal Baspa Power Company Limited (HBPCL)  
Karcham Wangtoo HEP, Sholtu Colony  
PO: Tapri, District Kinnaur-172104  
Himachal Pradesh
- 65)Jindal Power Limited  
6<sup>th</sup> Floor, MTNL Building  
8, Bhikaji Cama Place, New Delhi-110066
- 66)KSK Mahanadi Power Company Limited  
8-2-293/82/A/431/A, Road No. 22, Jubilee Hills  
Hyderabad, Andhra Pradesh-500033
- 67)PTC India Limited  
2<sup>nd</sup> Floor, NBCC Tower, 15, Bhikaji Cama Place  
New Delhi-110066
- 68)IL&FS Tamil Nadu Power Company Limited  
C. Pudhupettai Post, Parangipettai (Via)  
Chidambaram (TK), Cuddalore-608502, Tamil Nadu
- 69)Adani Power Limited  
10B, Sambhav Press Building  
Judges Bungalow Road, Badakdev  
Ahmedabad-380015
- 70)Torrent Power Limited  
Naranpura Zonal Office  
Sola Road, Ahmedabad-380013



- 71) Heavy Water Board  
Vikram Sarabhai Bhavan  
5<sup>th</sup> Floor, Anushaktinagar  
Mumbai-400094
- 72) ACB India Limited  
7<sup>th</sup> Floor, Corporate Tower  
Ambience Mall, NH-8  
Gurgaon-122001, Haryana
- 73) Emco Energy Limited  
Plot No.-F-5, Road No.-28  
Wagle Industrial Area, Thane  
Mumbai-400604
- 74) Spectrum Coal and Power Limited  
7<sup>th</sup> Floor, Corporate Tower  
Ambience Mall, NH-8, Gurgaon-122001  
Haryana
- 75) BARC  
TRP, Post-Ghivali, District-Palghar  
Barc Plant Site, District-Palghar-401505  
Maharashtra
- 76) Bharat Aluminium Company Limited  
Captive Power Plant, Balconagar  
Korba-495684
- 77) Dhariwal Infrastructure Limited  
C-6, Tadali Growth Centre, M.I.D.C.T  
District Chandrapur  
Maharashtra-442406
- 78) DB Power Limited  
Opposite Dena Bank, C-31, G-Block  
3<sup>rd</sup> Floor, Naman Corporate Link  
Bandra-Kurla Complex, Bandra (East)  
Mumbai-400 051  
Maharashtra
- 79) Neepco  
15, NBCC Tower,  
Bhikaji Cama Place  
New Delhi





80)NHPC Limited  
NHPC Office Complex, Sector-33  
Faridabad

81)NTPC Limited  
Core-7, Scope Complex  
New Delhi

...Respondents

**For Review Petitioner:** Shri S.B. Upadhayay, Sr. Advocate, PGCIL  
Ms. Swapna Seshadri, Advocate, PGCIL  
Ms. Rhea Luthra, Advocate, PGCIL  
Ms. Parichita Chowdhury, Advocate, PGCIL  
Shri Rakesh Prasad, PGCIL  
Shri V.C. Sekhar, PGCIL  
Ms. Manju Gupta, PGCIL  
Shri R.P.Padhi, PGCIL

**For Respondent :** Shri R.K. Mehta, Advocate, GRIDCO  
Ms. Himanshi Andley, Advocate, GRIDCO  
Shri Varun Shankar, Advocate, TPDDL  
Shri Abhishek Upadhayay, Advocate, TPDDL  
Shri R.B. Sharma, Advocate, BYPL, BRPL and BHSP (H) CL  
Shri Mohit Mudgal, Advocate, BYPL, BRPL and BHSP (H) CL

### **ORDER**

The Review Petitioner filed Petition No.67/TT/2015 for determination of annual transmission charges in respect of the following transmission assets under the provisions of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “2014 Tariff Regulations”):

- (a) Asset-I (HVDC Portion)  $\pm$  800 kV HVDC Biswanath Chariyali-Agra Pole-I (1500 MW HVDC Terminals at Biswanath Chariyali and Agra each along with the  $\pm$  800 kV Hexa Lapwing Transmission Line) (CoD 1.11.2015);
- (b) Asset-II (1.a): AC Portion LILO of 400 kV D/C Ranganadi- Balipara-I T/L at Biswanath Chariyali PS alongwith associated bays at Biswanath Chariyali (CoD 28.10.2015 );



- (c) Asset-II (1.b): AC Portion LILO of 400 kV D/C Ranganadi-Balipara-II T/L at Biswanath Chariyali PS alongwith associated bays at Biswanath Chariyali (CoD 27.10.2015);
- (d) Asset-II (2): AC Portion 132 kV D/C Biswanath Chariyali (PG)-Biswanath Chariyali (AEGCL) T/L alongwith associated bays at Biswanath Chariyali (AEGCL) and Biswanath Chariyali Pooling Station (PGCIL)( CoD 1.10.2015);
- (e) Asset-II (3): AC Portion 200 MVA, 400/132/33 kV ICT-I at Biswanath Chariyali PS (CoD 19.12.2015).

2. The Commission in the order dated 8.1.2016 proclaimed these transmission assets as assets of strategic and national importance and issued certain directions for funding of the projects by seeking grants from Power System Development Fund (PSDF). Relevant paragraphs of the said order are extracted as under:

“28. Since the transmission assets are of strategic and national importance whose benefits shall be derived by the entire country, we are of the view that the charges for the HVDC assets covered in the present petition should be shared by all the regions of the Country.

29. The Commission is conscious of the fact that the capital investments in the assets of the subject transmission systems are huge and the entire assets may not be utilised to their intended level on account of the delay in commissioning of planned hydro potential in NER. The Commission feels that there is a strong necessity to share the burden of capital cost of transmission scheme by way of assistance from the Power System Development Fund (PSDF) by way of one time grant. Accordingly, we direct the petitioner to take up the matter with the Monitoring Committee of the PSDF for assistance in the form of one time grant from the PSDF and with Ministry of Power for grant to reduce the burden of transmission charges on the DICs. We also request Ministry of Power, Government of India to arrange for funds from the PSDF as well as Government grant, considering the subject transmission systems as assets of strategic and national importance, keeping in view the utility of these assets in the long term perspective to the economy of the country.”



3. Annual Fixed Charges of the above assets under Regulation 7(7) of the 2014 Tariff Regulations for inclusion in the PoC computation were allowed vide order dated 8.1.2016. The Commission decided to hear the DICs of all regions and accordingly, directed the petitioner to implead the DICs of all regions as respondents in the petition and also directed the DICs to submit their views and participate in the hearing of the petition. The Petitioner impleaded all the DICs as respondents and some of the DICs filed their replies and made submissions during the hearing. The Commission after considering the written and oral submissions of the DICs decided vide its order dated 31.8.2017 that the subject transmission assets be considered as assets of strategic and national importance and all DICs should bear the transmission charges in the short run for long term benefits. Though the Commission recognized the capital cost incurred by the Review Petitioner, determination of final annual transmission charges was deferred till receipt of grant/ assistance from the Power Sector Development Fund (PSDF) and the National Clean Energy Fund (NCEF). Resultantly, the Review Petitioner was allowed to charge the annual fixed charges as determined by the Commission vide order dated 8.1.2016 as revised vide order dated 3.3.2016 till determination of final annual transmission charges.

4. The Review Petitioner has filed the present review petition seeking the review of the impugned order dated 31.8.2017 with the following prayer:

“Allow the petition for review and determine the tariff based on the approved capital cost and allow its recovery without linking with the receipt of the grant amount or alternatively fix a provisional tariff of at least 90% of the Annual Fixed Charges claimed in the petition subject to detailed adjustment with interest till the determination of the final tariff for the transmission assets.”



5. The Review Petitioner has submitted that it has been billing the DICs as per the provisional tariff order dated 8.1.2016 and recovering only 62% of the transmission charges claimed as provisional tariff subject to the final tariff to be determined by the Commission. However, the Commission has continued the tariff at the same rate by way of the impugned order. The Review Petitioner has submitted that there is an error apparent on the face of record in the order dated 31.8.2017 since the procedure as per the provisions of the Tariff Regulations, 2014 and Section 62 of the Electricity Act, 2003 has not been followed.

6. The Review Petitioner submitted that as per the directions of the Commission in order dated 8.1.2016, the Review Petitioner made concerted efforts for obtaining the grant from PSDF and NCEF for the transmission assets. Ministry of Power, Government of India (MoP) sanctioned grant of Rs.2889 crore only from PSDF vide letter dated 10.3.2017. MoP directed the Review Petitioner to pursue the application for balance portion of Rs. 2889 crore from NCEF and in case the proposal is not considered by NCEF, to approach PSDF for that purpose. Though the Review Petitioner submitted its revised application seeking the balance grant of Rs.2889 crore from NCEF, MoP vide its letter dated 26.9.2017 conveyed that the NCEF itself had been abolished upon implementation of GST with effect from 1.7.2017. The Review Petitioner again approached NLDC, the nodal agency for processing the applications for sanction of funds from PSDF, for grant of balance amount of Rs. 2889 crore from PSDF vide its letter dated 27.9.2017. The Review Petitioner has filed an affidavit dated 28.6.2018 enclosing a letter dated 22.6.2018 in which it has been stated that “after review of the funds available under PSDF, projected inflow and requirement of the funds for other schemes, the request of PGCIL for balance funds of Rs.2889 crore from PSDF has not



been considered by Monitoring Committee.” The Review Petitioner has submitted that even the sanctioned amount from PSDF has not been released so far.

7. The Review Petitioner has submitted that out of the tariff claim of approximately Rs. 2375 crore for the period from COD of the assets upto September, 2017, the Commission has allowed to recover only approx. Rs.1474 crore which is about 62% of the amount claimed. The Review Petitioner has submitted that the Review Petitioner has been servicing the loan (80%) and has invested its equity (20%) to the extent of 100% of the capital cost but has been allowed to recover only 62% of the same due to refusal of the Commission to fix the final tariff for the transmission assets. The Review Petitioner has submitted that apart from the already unrecovered amount of approx. Rs.901 crore till date, there would be an under-recovery of tariff to the tune of more than Rs.40 crore every month till the time of final tariff is granted by the Commission.

8. In reply to the Review Petition, MPPMCL has submitted that the cost allowed in the impugned order to be recovered has been arrived at after taking into consideration all the facts and as such there is no error apparent on record. BRPL has submitted that a review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for correction of patent error. GRIDCO has submitted that like all other HVDC lines, the cost of the instant assets should also be borne by the original beneficiaries for whom the transmission assets were conceived and executed and therefore, there is no justification for GRIDCO which is not a user of the instant assets to share the transmission charges of these assets.



9. The Review Petition was heard on 3.7.2018. The learned senior counsel for the Review Petitioner submitted that the Commission allowed only 62% of the annual transmission charges claimed and directed the Review Petitioner to meet the balance amount from PSDF/NCEF. Though Rs.2889 crore has been sanctioned from PSDF, the amount has not yet been released. In the circumstances, the Review Petitioner cannot meet its debt service obligations. The Review Petitioner has approached the Commission for revision of the annual fixed charges granted to the Review Petitioner vide order dated 8.1.2016 and allow annual fixed charges based on the approved capital cost without linking with the receipt of the grant amount or alternatively fix a provisional tariff of at least 90% of the annual fixed charges claimed in the petition subject to adjustment with interest after determination of the final tariff of the transmission assets.

10. Leaned counsel for the BRPL, BYPL & BHSP(H)CL submitted that since tariff has not been determined in the impugned order dated 31.8.2017, the question of review qua determination of tariff does not arise and therefore, the review petition is not maintainable. Learned counsel for GRIDCO submitted that GRIDCO has preferred Appeal No. 349 of 2017 before the Hon'ble Appellate Tribunal for Electricity against the order dated 31.8.2017 and therefore, outcome of the appeal be awaited before taking any decision with regard to determination of tariff and its recovery from all the DICs. Learned counsel for TPDDL submitted that the review petition be rejected as there is no error apparent on the face of the record in the impugned order dated 31.8.2017.



## **Analysis and Decision**

11. The Review Petitioner has approached the Commission by way of the present Review Petition for grant of annual fixed charges based on the admitted capital cost or alternatively for revision of the interim tariff granted to it from 62% to 90% of the annual fixed charges. The trigger point for approaching the Commission for review of the annual fixed charges is that the Review Petitioner has not yet been released grant for PSDF and its request for grant from NCEF has been rejected. Non-release of funds from PSDF or rejection of the Review Petitioner's application for grant from NCEF does not render the directions of the Commission to seek grants from PSDF/NCEF to reduce the burden of transmission charges on the DICs wrong or infructuous nor the order dated 31.8.2017 suffers from error apparent in the face of the record on that account. The Review Petitioner is under an obligation in terms of our order dated 8.1.2016 and 31.8.2017 to pursue with MoP for grant to part finance the project as the same has been recognised as assets of strategic and national importance both by this Commission and MoP. Therefore, we reject the review petition as there is no error apparent in the order dated 31.8.2017.

12. It is, however, observed that in para 50 of the order dated 31.8.2017, the Commission has directed the following:-

“51. The capital cost as determined above shall be reduced by the grants from PSDF and NCEF as and when the same is revived.

52. The other components of tariff and the final tariff will be determined after receipt of grant/ assistance under PSDF and NCEF. The petitioner would continue to recover the AFC granted vide order dated 8.1.2016 as per the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time. The petitioner is directed to file a fresh petition after receipt of grant/assistance from the Government of India. As the petitioner has already issued public notice in the newspapers as provided in the



Central Electricity Regulatory Commission (Procedure for making of application for determination of tariff, publication of the application and other related matters) Regulations, 2004 in case of the instant assets, we are of the view that there is no need to issue any fresh notice at the time of filing of fresh petition. The petitioner is also exempted from payment of filing fee.”

13. In terms of the above directions, the Review Petitioner was granted liberty to approach the Commission through a fresh petition after receipt of grant/assistance from PSDF and NCEF. In terms of the said liberty, the Petitioner may approach the Commission with a fresh petition for final determination of tariff of these assets alongwith the status of the grants received for consideration of the claims of the Commission in accordance with the 2014 Tariff Regulations.

14. Review Petition No.43/RP/2017 in Petition No.67/TT/2015 is disposed of in terms of the above.

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

sd/-  
**(A. S. Bakshi)**  
Member

sd/-  
**(A.K. Singhal)**  
Member

sd/-  
**(P.K. Pujari)**  
Chairperson

