

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 150/TT/2018

Subject : Determination of transmission tariff for Transmission and Distribution system activities of the network in respect of Damodar Valley Corporation for the tariff period 2014-19.

Date of Hearing : 22.1.2019

Coram : Shri P.K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I.S. Jha, Member

Petitioner : Damodar Valley Corporation (DVC)

Respondents : West Bengal State Electricity Distribution Company Limited Limited & Ors.

Parties present: Ms. Anushree Bardhan, Advocate DVC
Shri Rajiv Yadav, Advocate, THDC & DVC
Shri Samit Mandal, DVC

Record of Proceedings

Learned counsel for the petitioner submitted that the instant petition has been filed by DVC for determination of transmission tariff for existing Transmission and Distribution System of Damodar Valley Corporation for the tariff period 2014-19, as per the directions of the Commission in order dated 10.10.2017 in Petition No. 386/TT/2014. In the said order, the petitioner was directed to claim tariff separately for existing assets and new assets. Learned counsel submitted that Petition Nos. 335/TT/2018 and 334/TT/2018 are filed claiming tariff for the new elements and natural ISTS lines of DVC respectively. Learned counsel for the petitioner submitted that the information sought by the Commission in ROP dated 23.10.2018 was filed vide affidavit dated 15.11.2018. She also submitted that rejoinder to the reply of the DVC Consumer Association has been filed.

2. Learned counsel for the DVC Consumer Association submitted that the petitioner in the original petition categorically stated that the asset was not put in use due to some uncontrollable events. A general statement by the petitioner is not sufficient and the petitioner is required to specifically mention and explain those uncontrollable factors.



However, in its rejoinder, the petitioner submitted that the COD of the assets was during 2009-14 period. Therefore, the stand taken by the petitioner in its rejoinder is contrary to the stand taken in its original petition. Learned counsel requested the Commission to direct the petitioner to explain the different stand taken by the petitioner in the original petition and its rejoinder.

3. Learned counsel for the respondent submitted that Regulation 14(3) of the 2014 Tariff Regulations expressly excludes minor items for the purpose of tariff determination. He further submitted that any expenditure incurred on acquiring minor items, or assets including tools, AC, heater etc after the cut-off date will not be considered for additional capitalization for determining the transmission tariff. He submitted that as per the embargo provided in Regulation 14(3), these minor items should not be considered for determination of transmission tariff.

4. Learned counsel for the respondent submitted that contribution to the Pension and Gratuity Fund should not be allowed as it is already covered under the head of O&M expenses. The Commission allowed the contribution to the Pension and Gratuity Fund for 2006-09 period as per the directions of the CAG and the same was unsuccessfully challenged by the consumers in APTEL and later upheld by the Hon'ble Supreme Court. After the fund was created in 2009-14 tariff period, the Commission disallowed it and same was not challenged by the petitioner and accordingly it attained finality. In the true up petition for the 2009-14 period, the Commission adopted the same approach and again disallowed it. Further, in some of the petitions for 2014-19 period, it was disallowed by the Commission and accordingly the petitioner's claim towards contribution to Pension and Gratuity Fund should be disallowed.

5. Learned counsel for the respondent requested the Commission to direct the petitioner to maintain separate accounts for generation, transmission and distribution and irrigation and flood control as they generate separate streams of revenue. In response, the learned counsel for the petitioner refuted the contention that irrigation and flood control generates revenue.

6. Learned counsel of the respondent submitted that the Commission in order dated 3.10.2016 observed that the petitioner is engaged in power trading and directed the petitioner to adjust the revenue earned by the petitioner through the business of trading while projecting ARR before State Regulatory Commission. Learned counsel for the respondent submitted that the petitioner has not complied with the said directions in its retail tariff petitions filed before the State Commissions.

7. In response, learned counsel for the petitioner submitted that since the present petition is only related to the existing transmission elements whose COD was before 31.3.2014, the issue of IDC and IDEC does not arise. She submitted that the present petition is for the existing elements and accordingly additional capitalization is claimed under Regulation 14(3) of 2014 Tariff Regulations. As regards minor items, she submitted that the minor items are essential for the proper functioning of the system and



has accordingly claimed capital expenditure incurred against those items and requested the Commission to decide the matter on merits.

8. As regards the contribution towards Gratuity Fund, learned counsel for petitioner submitted that the petitioner has filed a Petition No.197 of 2016 in this regard for the tariff period 2014-19 and the same is pending before the Commission. She requested to club this issue with the Petition No.197 of 2016. As regards the issue of "Separate Accounts", she submitted that the same has already been decided in favour of the petitioner by the Hon'ble Supreme Court.

9. After hearing the parties, the Commission reserved the order in the petition.

By order of the Commission

sd/-
(T. Rout)
Chief (Law)

