

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 152/TT/2020

Subject: : Approval for truing up of the tariff of the 2009-14 and 2014-19 periods and determination of transmission tariff for the 2019-24 period of two assets under NRSSS -IX.

Date of Hearing : 28.7.2020

Coram : Shri I.S Jha, Member
Shri Arun Goyal, Member

Petitioner : Power Grid Corporation of India Ltd. (PGCIL)

Respondents : Rajasthan Rajya Vidyut Prasaran Nigam Ltd. and 16 others

Parties Present: : Shri. A. K. Verma, PGCIL
Shri S. S. Raju, PGCIL
Shri. B. Dash, PGCIL
Shri. Abhay Choudhary, PGCIL
Shri R. B. Sharma, Advocate, BRPL

Record of Proceedings

The matter was heard through video conference.

2. The representative of the Petitioner submitted that the instant petition has been filed for truing up of the tariff of the 2009-14 and 2014-19 tariff periods and determination of tariff of the 2019-24 period for Asset-I:400 kV D/C Twin Conductor Kanpur-Ballabgarh Transmission Line along with its Associated Bays and Asset-2: 40% FSC at Ballabgarh on 400 kV D/C Kanpur-Ballabgarh Transmission Line under Transmission System associated with Northern Region System Strengthening Scheme-IX (NRSSS-IX).

3. The representative of the Petitioner submitted that tariff for Asset-I and Asset-II for the 2009-14 tariff period was allowed vide orders dated 1.8.2011 and 23.5.2012 in Petition Nos. 329/2010 and 17/2011 respectively. He submitted that in respect of Asset-II, the petition was filed based on anticipated COD of 1.6.2011. He submitted that true up of tariff of the instant assets for the 2014-19 period was claimed in Petition No. 15/TT/2015 and the Commission vide order dated 18.3.2016 restricted the capital cost of Asset-II to the apportioned approved cost in the absence of RCE. He submitted that during the preparation of RCE of NRSS-IX, an arithmetical error was noticed in apportionment of FR cost to the individual elements of the project and the apportioned FR costs submitted in true up Petition No. 15/TT/2015 was found to be incorrect. He submitted that correct apportionment as per FR for both the assets has been filed in the instant petition and prayed for allowing true up of tariff for the 2009-14 period under Regulation 44 of the 2009 Tariff Regulations.

4. The representative of the Petitioner submitted that while truing up of the tariff of the 2014-19 period in respect of the instant assets, the Commission vide order dated 18.3.2016



in Petition No. 15/TT/2015 allowed capital expenditure of ₹38371.36 lakh up to 31.3.2014 whereas in the instant petition, the Petitioner has claimed ₹38712.70 lakh as per the revised apportioned FR cost. He submitted that based on the actual additional capital expenditure in the 2014-19 period, the Petitioner has claimed ₹39145.60 lakh as on 31.3.2019 and there is no additional capital expenditure during 2019-24 period. He submitted that UPPCL and BRPL have submitted their reply to the petition and rejoinder to the reply of UPPCL has been filed vide affidavit dated 27.7.2020.

5. In response to a query of the Commission regarding capital cost of the instant assets, the representative of the Petitioner clarified that the FR capital cost of Asset-I has been reduced by an amount equivalent to increase in the FR capital cost of Asset-II and therefore, the total FR capital cost of the instant assets remains the same. He further submitted that the completion cost of Asset-I and Asset-II was ₹35631.78 lakh and ₹3513.82 lakh respectively.

6. In response to another query of the Commission regarding regulation under which the Petitioner is claiming further true up of the tariff of the 2009-14 period, the representative of the Petitioner submitted that the same is prayed under Regulation 44 of the 2009 Tariff Regulations.

7. Learned counsel for BRPL while referring to his reply dated 24.7.2020 advanced extensive arguments and raised issues like increase in tariff of the 2014-19 period due to adoption of Indian Accounting Standards, basis of computation of effective tax rate, auditor's certificate, claiming of deferred tax liability, availing of benefits under Section 80 IA of the Income Tax Act, 1961 but not passing it to the beneficiaries, etc. The main issues raised by the learned counsel for BRPL are as under:-

- a. There was cost over-run in case of Asset-II and the Commission had rightly restricted the capital expenditure to the FR cost.
- b. The Petitioner must submit the region wise and corporate audited balance sheet and profit and loss accounts with all the Schedules for the new Transmission System as per the Annexure-I of the 2014 Tariff Regulations. The Petitioner has stated in the petition that the Income Tax assessment orders have been issued by the Income Tax Department for 2014-15 and 2015-16 and perusal of the same shows that this information is in respect of all activities of PGCIL and not separately for the transmission business in Northern Region. Accordingly, the information submitted is not the relevant information for the purpose of calculating effective tax rate. Regulation 25(1) of the 2014 Tariff Regulations clearly stipulates that the actual tax income on other income stream concerning non- transmission business shall not be considered for effective tax rate. Further, as per the 'Consolidated Audited Accounts' of the Petitioner available on its website, the effective tax rate worked out for the Petitioner is 8.70% for 2014-15 and 'NIL' in 2015-16, 2016-17, 2017-18, and 2018-19. The said computed tax rate is based on the consolidated financial statements of the Petitioner and the effective tax rate on the actual income of transmission business would be lower as the benefits of tax are applicable on the transmission business.
- c. As per Regulation 31(3) of the 2019 Tariff Regulations, the Petitioner has a statutory duty to undertake the true up of the grossed-up rate of RoE at the end of



every financial year based on actual tax paid. The above statutory function delegated to the Transmission Licensee cannot be exercised unilaterally and it should be conducted in an impartial manner by involving all the beneficiaries. All the documents related to tax payment should be produced including the actual tax paid by the Petitioner on the transmission business in the particular region.

8. In response, the representative of the Petitioner clarified as follows:-
 - a. The Petitioner has adopted the Indian Accounting Standards effective from 2015-16 and opted for deemed cost exemption as per norms of Indian Accounting Standards. He submitted that for the purpose of computation of tariff, the actual ACE has been claimed and considered and there is no impact in tariff on account of adoption of Indian Accounting Standards. He stated that change in tariff during the 2014-19 period is due to change in effective tax rate. He further stated that BRPL's claim that the Petitioner has adopted Indian Accounting Standards merely to increase tariff is false and misleading.
 - b. As per provisions of Regulations 25(1), (2) and (3) of the 2014 Tariff Regulations, the Petitioner has calculated the effective tax rate for the 2014-19 period based on the actual income tax paid and in accordance with the provisions of the Income Tax Act, 1961 with respect to each financial year. He further stated that the benefits under 80 IA of the Income Tax Act, 1961, if any, have been passed on to the beneficiaries.
 - c. The Commission in order dated 4.4.2019 in Review Petition No. 15/RP/2015 gave the liberty to the Petitioner to submit all the facts and documents. Accordingly, the Petitioner has requested for truing up of the 2009-14 as per the revised FR cost.
 - d. The Auditor's Certificate submitted by the Petitioner gives break-up of income from transmission business and other businesses.
9. After hearing the parties at length, the Commission directed the Petitioner to file rejoinder to the reply filed by BRPL by 4.9.2020 with an advance copy to the respondents and gave liberty to the parties, including BRPL and UPPCL, to file their written submissions, if any, by 10.9.2020. The Commission further directed the parties to submit the information within the specified time and observed that no extension of time shall be granted.
10. Subject to the above, the Commission reserved order in the matter.

By Order of the Commission

sd/-
(V. Sreenivas)
Dy. Chief (Law)

