

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 84/TT/2020

Subject : Truing up of tariff of the 2014-19 period and determination of tariff for the 2019-24 period for transmission assets consisting of **Asset-I:** Pole-I of + 500 kV, 2500 MW Ballia-Bhiwadi HVDC Bipole, **Asset-II:** Pole-II of + 500 kV, 2500 MW Ballia-Bhiwadi HVDC Bipole , **Asset-III:** LILO of Kahalgaon-Patna 400 kV D/C (Quad) line at Barh Sub-station, **Asset-IV:** 765 kV S/C Seoni-Bina transmission line, and **Asset-V:** Barh-Balia 400 kV D/C (Quad) line along with associated bays at Balia Sub-station covered under “Barh Transmission System” in the Northern, Eastern and Western Region.

Date of Hearing : 24.6.2020

Coram : Shri P. K. Pujari, Chairperson
Shri I.S Jha, Member
Shri Arun Goyal, Member

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

Respondents : BRPL and 31 others

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

Record of Proceedings

The matter was heard through video conferencing.

2. The representative of the Petitioner submitted that the instant petition is filed for truing up of transmission tariff for the 2014-19 period and determination of transmission tariff for the 2019-24 period for assets under “Barh Transmission System” in the Northern, Eastern and Western Region. The instant petition covers five assets which were put into commercial operation during the 2009-14 tariff period. He submitted that tariff of Asset-I, Asset-II, Asset-III and Asset-IV for 2014-19 period was determined vide order dated 30.3.2016 in Petition No. 31/TT/2015 and that of Asset-V for 2014-19 period was allowed vide order dated 31.10.2017 in Petition No. 91/TT/2017. The representative of the Petitioner submitted that the FR approved cost is ₹435046.70 lakh and the capital cost as on 31.3.2019 is ₹396891.69 lakh. He submitted that the total estimated capital cost of the instant assets is ₹399888.61 lakh, including the Additional Capital Expenditure (ACE) of ₹1949.41 lakh during 2019-20. The ACE claimed in case of Asset-I for the 2014-19



period is on account of balance and retention payments due to undischarged liability for works executed within cut-off date. The ACE claimed in Asset I and II for the 2019-24 period is on account of the payments withheld due to technical problems in DC filters installed by the contractor, which has now been rectified. He submitted that the information sought by the Commission and rejoinder to the replies filed by BRPL, MPPMCL and MSEDCL has been filed vide affidavits dated 12.3.2020, 18.3.2020, 22.6.2020 and 24.6.2020 respectively. He sought time to file rejoinder to the reply filed by UPPCL.

3. Learned counsel for BSES Rajdhani Power Ltd. (BRPL) submitted that the Petitioner has not claimed the capital cost as approved vide order dated 31.3.2016 in Petition No. 31/TT/2015 which is not in accordance with Regulation 9(3)(a) of the 2014 Tariff Regulations. He submitted that the Auditor's certificate dated 18.11.2019 for Asset-I and Asset-II also includes FERV loss as per Accounting Standards 11 & 16. As there is no provision for FERV loss in the Regulations pertaining to true up of the tariff, the filing of such information is of no use for true up of the tariff. He submitted that the Petitioner is entitled for benefits under section 80-IA of the Income Tax Act, 1961 and the Petitioner must explain why those benefits are not availed. Learned counsel submitted that the Petitioner has claimed revision of 'Initial Spares' based on the capital cost of all assets in accordance with the judgment of APTEL dated 14.9.2019 in Appeal No. 74 of 2017 pertaining to tariff period 2009-14. As the instant petition is for true up of the tariff of the 2014-19 period, revision of the 'Initial Spares' allowed earlier cannot be revised at the time of truing up. He submitted that an order cannot be revised or modified on the basis of a subsequent decision of a superior court in any other case and the APTEL'S judgement dated 14.9.2019 is not applicable in the instant case. The learned counsel for the Petitioner has not stated whether Optical Ground Wire (OPGW) is used as earth wire in case of the instant assets. The Petitioner has claimed effective tax rate based on the consolidated income of the company, whereas the income from other business activities of the Petitioner such as consulting, communication, planning and design of projects etc. are required to be excluded from the computation of effective rate of tax. The deferred tax liability relevant to the aforesaid other business shall also not be considered in the computation of effective tax rate. The Petitioner has submitted effective tax rate as 0.00 for both the 2014-19 period and 2019-24 period in Form No. 3 of all the assets under the instant petition. However, the Petitioner has considered effective tax percentage for grossing up the base rate of return on equity. The learned counsel submitted that the S. No. 2 under the head 'Other Information/ Documents' of the tariff filing forms specifies "Region-wise and Corporate Audited Balance Sheet and Profit & Loss Accounts with all the Schedules & Annexure for the new Transmission System & Communication System for the relevant years" which have not been filed by the Petitioner.

4. In response, the representative of the Petitioner submitted that the issues raised by BRPL have already been addressed in its rejoinder to the reply submitted by BRPL. He submitted that the APTEL's judgment in Appeal No. 74 of 2017 is generic in nature and it is applicable to the instant case and hence the Initial Spares have been re-calculated considering the project as a whole and the differential has been added to the capital cost as on 1.4.2014. He submitted that FERV is claimed as per the Regulations. As regards the issue of income tax, he submitted that the



Petitioner is availing the benefit under Section 80-1A, that is why it is paying MAT under the Income Tax Act, 1961 which is 18.54% otherwise it has to pay 30% income tax.

5. Learned counsel for BRPL further submitted that the Petitioner has option to pay tax at the rate of 30% applicable as Corporate Tax or tax at MAT rate, however, the benefit under section 80-1A is applicable in both the cases.

6. The Commission directed the Petitioner to clarify the issues raised by BRPL, to file rejoinder to the UPPCL's reply and to submit the following information on affidavit with an advance copy to the beneficiaries by 15.7.2020:

- a. Detailed reason for not claiming the annuity payments in the earlier petitions along with the proof of payment certified by Auditor.
- b. The current status of pending matter in Delhi High Court filed by M/S Jyoti Structures Ltd.

7. The Commission directed the Petitioner to submit the above said information within the specified time and observed no extension of time shall be granted.

8. Subject to the above, the Commission reserved its order in the matter.

By order of the Commission

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(V. Sreenivas)
Dy. Chief (Law)

