

CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi

Petition No. 123/TT/2020

- Subject** : Petition for revision of transmission tariff of 2004-09 and 2009-14 tariff periods, truing up of transmission tariff of 2014-19 tariff period and determination of transmission tariff of 2019-24 tariff period for Madurai-Trivandrum 400 kV D/C Transmission System in Southern Region
- Date of Hearing** : 8.6.2021
- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Pravas Kumar Singh, Member
- Petitioner** : Power Grid Corporation of India Ltd.
- Respondents** : Karnataka Power Transmission Corporation Ltd. & 16 Others
- Parties Present** : Shri B. Vinodh Kanna, Advocate, TANGEDCO
Shri S. S. Raju, PGCIL
Shri D. K. Biswal, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A. K. Verma, PGCIL
Ms. R. Ramalakshmi, TANGEDCO
Shri. R. Srinivasan, TANGEDCO

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner made the following submissions:
- a. The instant petition is filed for revision of transmission tariff of 2004-09 and 2009-14 tariff periods, truing up of transmission tariff of 2014-19 tariff period and determination of transmission tariff of 2019-24 tariff period for Madurai-Trivandrum 400 kV D/C Transmission System in Southern Region;
 - b. The date of commercial operation of the asset was 1.8.2005;
 - c. Revised tariff of 2004-09 period is claimed pursuant to directions of the Commission in order dated 18.1.2019 in Petition No. 121/2007 and in line with APTEL judgments dated 22.1.2007 and 13.6.2007 in Appeal Nos. 81 of 2005 and 139 of 2006 respectively;
 - d. The final tariff has been claimed based on admitted capital cost by the Commission vide order dated 30.12.2015 in Petition No. 407/TT/2014. No Additional Capital Expenditure (ACE) was projected during 2014-19 tariff period.



e. Actual ACE incurred during 2014-19 tariff period is claimed under Regulation 14(3)(i) of the 2014 Tariff Regulations and is on account of enhanced compensation as per Court order in Kerala. Detailed justification along with Court's order has been submitted in reply to Technical Validation letter vide affidavit dated 5.5.2020;

f. Requested the Commission to allow actual ACE incurred during 2014-19 period and capital cost claimed as on 31.3.2019 for tariff calculation;

g. No ACE is claimed in respect of the transmission asset during 2019-24 tariff period; and

h. Revised Cost Estimate-II (RCE-II) for the captioned transmission system has been submitted by the Petitioner vide affidavit dated 1.6.2021 and total estimated completion cost as on 31.3.2019 is within RCE-II.

3. Learned counsel for TANGEDCO submitted that reply in the matter has been e-mailed to the Petitioner but the same could not be uploaded on the Commission's e-filing portal and requested for Commission's leave to upload the same. He made the following submissions during the hearing:

a. The claim for revision of tariff for 2004-09 tariff period is not justifiable as neither the Electricity Act, 2003 nor the Tariff Regulations permit such retrospective revision of bills and the same is unreasonable and contrary to the settled position of law;

b. Relying upon the Hon'ble Supreme Court judgment in U.P. Power Corporation Ltd. vs. NTPC Ltd. reported in (2009) 6 SCC 235, he stated that current consumers of TANGEDCO cannot be burdened with the liability of retrospective tariff and similarly the ARR of TANGEDCO cannot be revised retrospectively;

c. Referring to the Commission's order dated 30.12.2015 in Petition No. 407/TT/2014, the learned counsel drew attention of the Commission regarding details of truing up of transmission tariff of 2009-14 period due to ACE and admitted cost as on 31.3.2009, capital cost allowed as on 31.3.2014 including ACE and capital cost allowed as on 1.4.2014 and 31.3.2019, and submitted that the Petitioner has claimed ACE on account of compensation as per Court's order and has uploaded documentary proofs pertaining to the same which are not legible and clear and requested the Commission to direct the Petitioner;

i. to upload legible statement of compensation paid to the individual land owners as per the directions of the Court's order;

ii. to clarify whether the compensation paid/ said to be paid are in line with the guidelines of Government of India and if not, the action taken by the Petitioner to escalate the issue to the next forum may be furnished; and

iii. to clarify the discrepancy whether ACE claimed under Regulation 14(3)(i) 2014 Tariff Regulations is on account of balance work to be executed (as given in Form 7) or is on account of balance payments for compliance of the Court's order.

d. The land compensation has been made from 2014-15 up to 2018-19 and even after two years of discharge of the liabilities, the Petitioner has failed to obtain RCE, in absence of which, ACE claim may be disallowed by the Commission;



e. Relying upon the Gujarat High Court judgment dated 19.12.2018 in Torrent Power Ltd. (Special Civil Appeal No. 5343 of 2018), he submitted that GST is not applicable to transmission of electricity and, therefore, the claim of GST by the Petitioner is not applicable and it is premature; and

f. The 2020 Sharing Regulations were notified by the Commission on 4.5.2020 which came into effect on 1.11.2020 and hence yearly transmission charges till 31.10.2020 should be shared as per the 2010 Sharing Regulations and from 1.11.2020 should be shared as per the 2020 Sharing Regulations.

4. In response to a query of the Commission, the representative of the Petitioner submitted that payment is made through bank account transfers and summary sheet pertaining to the transfers is available, which shall be furnished with the rejoinder.

5. Upon hearing the parties present, the Commission directed the Respondents, including TANGEDCO to submit reply by 18.6.2021 and directed the Petitioner to file its rejoinder, if any, by 27.6.2021. The Commission also directed the Petitioner to furnish the payment receipts and clarify the issues raised by TANGEDCO in Form 7 submitted by the Petitioner. The Commission further directed the parties to adhere to the specified timeline and observed that no extension of time shall be granted.

6. Subject to above, the Commission reserved the order in the matter.

By order of the Commission

sd/-

(V. Sreenivas)

Deputy Chief (Law)

