

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
New Delhi**

**Petition No. 248/TT/2020**

- Subject** : Revision of transmission tariff of the 2004-09 and 2009-14 tariff periods, truing up of transmission tariff for the 2014-19 tariff period and determination of transmission tariff for 2019-24 tariff period for four assets under Kaiga 3 and 4 (2x235 MW) Project in the Southern Region.
- Date of Hearing** : 17.8.2021
- Coram** : Shri P. K. Pujari, Chairperson  
Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member
- Petitioner** : Power Grid Corporation of India Ltd.
- Respondents** : Karnataka Power Transmission Corporation Ltd. (KPTCL) and 17 others
- Parties Present** : Shri S. Vallinayagam, Advocate, TANGEDCO  
Ms. Ranjitha Ramachandran, Advocate, PGCIL  
Shri S.S Raju, PGCIL  
Shri D.K. Biswal, PGCIL  
Shri V.P. Rastogi, PGCIL  
Shri A.K. Verma, PGCIL  
Dr. R. Kathiravan, TANGEDCO  
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 the 2004-09 and 2009-14 tariff periods, truing up of transmission tariff for the 2014-19 tariff period and determination of transmission tariff for 2019-24 tariff period in respect of the following assets under transmission system associated with Kaiga 3 and 4 (2x235 MW) Project in the Southern Region:
- Asset-I:** (a) 50 MVAR Reactor at Narendra Sub-station, (b) Narendra – Davanagere 400 kV D/C Transmission Line and 50 MVAR Bus Reactor at Mysore, (c) LILO of Kolar-Sripreambudur 400kv S/C line along with 50 MVAR reactor at Kalivanthapattu;
- Asset-II:** (d) 2<sup>nd</sup> Auto Transformer at Hiriyyur Sub-station;



**Asset-III:** (e) 1<sup>st</sup> 315 MVA Auto transformer at Kalivanthapattu Sub-station and (f) 2<sup>nd</sup> Auto transformer at Kalivanthapattu Sub-station along with associated bays and equipments; and

**Asset-IV:** Mysore-Kozhikode 400 kV D/C Transmission Line along with new 400/220 kV Sub-station with 2x315 MVA ICTs and 2x50 MVar Switchable Line Reactors at Kozhikode Sub-station and extension of Mysore Sub-station.

- b. All the assets were put into commercial operation during the 2004-09 tariff period except Asset-IV which was put into commercial operation on 16.10.2015 i.e. during 2014-19 tariff period. The transmission tariff of 2009-14 tariff period was trued-up and tariff of 2014-19 tariff period was allowed by the Commission vide order dated 8.1.2016 in Petition No. 205/TT/2014 for Assets-I, II and III and transmission tariff from COD to 31.3.2019 was allowed vide order dated 30.5.2016 in Petition No. 276/TT/2015 for Asset-IV.
- c. Revised tariff of 2004-09 and 2009-14 tariff periods is claimed pursuant to directions of the Commission vide 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 true-up of tariff of the 2014-19 tariff period and tariff of the 2019-24 tariff period is claimed based on the capital cost admitted vide order dated 8.1.2016 in Petition No. 205/TT/2014 for Assets-I, II and III and vide order dated 30.5.2016 in Petition No. 276/TT/2015 for Asset-IV;
- e. Additional Capital Expenditure (ACE) is claimed in 2014-19 and 2019-24 tariff period in respect of Asset-IV after cut-off date of 31.3.2018 under Regulation 14(2)(i) of 2014 Tariff Regulations and Regulations 25(1)(d) of 2019 Tariff Regulations respectively.
- f. 2 weeks' time may be granted to file a rejoinder to the reply of TANGEDCO dated 16.8.2021 and to file revised tariff forms based on revised Auditor certificate having actual expenditure during 2019-20 and 2020-21, court orders and projected expenditure for the remaining years in the 2019-24 tariff period.
- g. The information sought in the Technical Validation letter was filed vide affidavit dated 14.7.2021.

3. Learned counsel for TANGEDCO submitted that the revision of transmission tariff as prayed for by the Petitioner for 2004-09 and 2009-14 tariff periods should not be allowed as the tariff regulations of the Commission do not provide for retrospective revision of tariff. He further submitted that claim of the Petitioner is unjust, unreasonable and contrary to Hon'ble Supreme Court judgement dated 3.3.2009 in Civil Appeal No. 1110 of 2007 in the matter of U.P. Power Corporation Ltd. Vs. NTPC Ltd. (2009) 6 SCC 235. He submitted that the order dated 18.1.2019 in Petition No. 121/2007 was obtained by the Petitioner without bringing into notice the above said judgment of Hon'ble Supreme Court before the Commission. Had the Petitioner brought the above judgement before the Commission in Petition No. 121/2007, the Commission may have taken a different view. He made detailed arguments citing various paragraphs from the said judgement.

4. Learned counsel for TANGEDCO argued on 'Principles of Restitution' referring to various judgments in support of his arguments. Accordingly, he prayed that the order passed



by the Commission in Petition No. 121/2007 deserves to be ignored as the same has been obtained by the Petitioner without citing the law laid down in the judgements of Hon'ble Supreme Court. He submitted that the Petitioner has claimed ACE towards additional compensation payments pursuant to a court order but the Petitioner has not submitted any documentary evidence in this regard. He further submitted that the reasons given in Form-7 do not match with the reasons submitted in the pleading.

5. Learned counsel for TANGEDCO further submitted that the sharing of transmission charges should be as per the applicable Sharing Regulations and further prayed that he may be permitted to file written arguments/ submissions in the matter.

6. In response, the learned counsel for the Petitioner submitted that revision of tariff has been allowed by the Commission vide order dated 6.11.2019 in Petition Nos. 288/TT/2019, 300/TT/2019, 301/TT/2019 and 305/TT/2019. She submitted that a similar contention raised by TANGEDCO has been dealt in order dated 6.5.2021 in Petition No. 155/TT/2020. She further submitted that reliance placed by TANGEDCO on the said judgement of Hon'ble Supreme Court is based on a fact which was specific to that matter and that has no relevance to the facts of the present case. She submitted that the Petitioner filed the petition for revision of tariff for the years 2001-04 and 2004-09 in the year 2007 in terms of said judgements of APTEL in 2007. However, the Commission taking note of the pending Appeals on the issues of revision of tariff before the Hon'ble Supreme Court adjourned the proceedings in Petition No. 121/2007 sine die with liberty to revive the same as and when the Civil Appeals are disposed of by the Hon'ble Supreme Court. She submitted that the Hon'ble Supreme Court dismissed the Appeals filed against the said judgments of APTEL dated 22.1.2007 and 13.6.2007 vide judgement dated 10.4.2018, meaning thereby that aspect of revision of tariff attained finality only on 10.4.2018. Accordingly, the Commission vide order dated 18.1.2019 disposed of Petition No. 121/2007 filed by the Petitioner with liberty to raise the claim of revision of tariff for 2001-04, 2004-09 and 2009-14 tariff periods alongwith truing up of tariff for 2014-19 period and determination of tariff for 2019-24 period wherever applicable. She submitted that the different stages of tariff as referred to in the said judgement of Hon'ble Supreme Court on which reliance is placed by TANGEDCO are not attracted in the present case as the Petitioner had come for revision of tariff in the year 2007 only but the procedural aspects as referred to above in the present case ended only in 2019.

7. The Commission permitted TANGEDCO to file its written arguments/ submissions by 27.8.2021 and the Petitioner to file rejoinder, if any, along with all relevant submissions by 3.9.2021 including revised tariff forms based on revised auditor certificate having actual expenditure for the years 2019-20 and 2020-21, court orders and projected expenditure for the remaining years in the 2019-24 tariff period. The Commission further directed the parties to adhere to the timeline and observed that no extension of time shall be granted.

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

**By order of the Commission**

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

