

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 315/TT/2019

- Subject** : Petition for revision of transmission tariff of the 2001-04, 2004-09 and 2009-14 tariff periods, truing up of transmission tariff of the 2014-19 tariff period and determination of tariff of the 2019-24 tariff period of 400/220 kV Bhiwadi Sub-station along with LILO of Ballabgarh-Bassi 400 kV S/C line and ICT-I & ICT-II at Bhiwadi in the Northern Region.
- Date of Hearing** : 6.4.2021
- 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** : Rajasthan Rajya Vidyut Prasaran Nigam Limited and 16 others
- Parties Present** : Shri R. B. Sharma, Advocate, BRPL
Shri Sachin Dubey, Advocate, BYPL
Shri S. S. Raju, PGCIL
Shri B. Dash, PGCIL
Shri V. P. Rastogi, PGCIL
Shri A. K. Verma, PGCIL
Ms. Megha Bajpayee, BRPL

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner submitted that the instant petition is filed for the revision of tariff of the 2001-04, 2004-09 and 2009-14 tariff periods, truing up of tariff of the 2014-19 tariff period and determination of tariff of the 2019-24 tariff period for 400/220 kV Bhiwadi Sub-station along with LILO of Ballabgarh-Bassi 400 kV S/C line and ICT-I & ICT-II at Bhiwadi in the Northern Region. He submitted that the information sought through Technical Validation letter was filed vide affidavit dated 25.2.2021 and rejoinder to the reply of BRPL was filed vide affidavit dated 5.4.2021.

3. The learned counsel for BRPL has made the following submissions:

- a. As regards revision of the tariff of 2001-04, 2004-09 and 2009-14 tariff periods based on the APTEL's judgments, the Petitioner referred to only a part of the Hon'ble Supreme Court's judgement in the matter of U.P. Power Corporation Limited Vs. National Thermal Power Corporation Limited reported in (2009) 6 SCC 235 and the Commission considered only that portion of the judgement and not the entire judgement. The Commission may re-examine the whole issue considering the



entirety of the judgment of the Hon'ble Supreme Court and decide if the same is applicable to the facts of this case. He contended that the claim to increase the tariff is permissible only when the tariff is in force and not afterwards. Further, the Commission may revisit its order dated 6.11.2019 in Petition Nos. 288/TT/2019, 300/TT/2019, 301/TT/2019 and 305/TT/2019 in view of the facts and legal position and the Judgment of the Hon'ble Supreme Court.

b. The truing up of tariff of the 2009-14 tariff period was not carried out in accordance with Regulation 6(1) of the 2009 Tariff Regulations. As per Regulation 25(3) of the 2014 Tariff Regulations, the true up has to be done based on actual tax rate applicable to the company. If the trued up tariff is less than the tariff already recovered, the Petitioner should refund the excess tariff recovered to the beneficiaries along with simple interest.

c. The transmission licensees are allowed tax benefits under Section 80IA of the Income Tax Act, 1961 in the form of Tax Holiday and higher depreciation in the initial years. The Petitioner should file the Profit and Loss statement clearly depicting the tax paid on the transmission business.

4. The learned counsel of BYPL submitted that BYPL adopts the submissions made by the learned counsel for BRPL.

5. The Commission observed that the learned counsel of BRPL had raised the same issue earlier and the Commission vide the order dated 6.11.2019 in Petition Nos. 288/TT/2019, 300/TT/2019, 301/TT/2019 and 305/TT/2019 has already taken a view.

6. After hearing the parties, the Commission reserved the order in the matter.

By order of the Commission

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

