

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 493/TT/2019

- Subject** : Petition for truing up of transmission tariff of the 2014-19 tariff period and determination of transmission tariff of the 2019-24 tariff period of two assets under Northern Region System Strengthening Scheme-X (NRSS-X) in Northern Region
- Date of Hearing** : 18.5.2021
- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Pravas Kumar Singh, Member
- Petitioner** : Power Grid Corporation of India Ltd.
- Respondents** : Rajasthan Rajya Vidyut Prasaran Nigam Ltd. & 16 others
- Parties Present** : Shri R. B. Sharma, Advocate, BRPL
Shri S. S. Raju, PGCIL
Shri B. Dash, PGCIL
Shri V. P. Rastogi, PGCIL
Shri A. K. Verma, PGCIL
Ms. Megha Bajpeyi, BRPL

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner made the following submissions:
- a. The instant petition has been filed for truing up of transmission tariff of the 2014-19 tariff period and determination of transmission tariff of the 2019-24 tariff period for the Combined Asset consisting of **Asset-I**: 400 kV D/C Gorakhpur-Lucknow Transmission Line along with its associated bays; and **Asset-II**: 30% FSC on 400 kV D/C Gorakhpur-Lucknow Transmission Line at Lucknow along with bays under NRSS-X in Northern Region;
 - b. The commercial operation date for the Combined Asset was 1.4.2011;
 - c. The transmission tariff of the Combined Asset for the 2014-19 tariff period was allowed by the Commission vide order dated 17.2.2016 in Petition No. 544/TT/2014;
 - d. The capital cost allowed vide order dated 17.2.2016 in Petition No. 544/TT/2014 has been claimed and ACE claimed for the 2014-19 tariff period is within the ACE admitted in the order dated 17.2.2016. ACE claimed is in accordance with Regulation 14(3)(v) of the 2014 Tariff Regulations as ACE is after the cut-off date for the works executed before the cut-off date;



- e. Details of ACE incurred during 2014-15 and 2015-16 periods along with justification(s) have been given in affidavit dated 4.5.2020 filed in compliance of Technical Validation letter. ACE claimed is for the works executed in sub-station such as roads, drains, township, cable trench cover, service room of control room building other than main control room and landscaping works;
 - f. The revised transmission Tariff Forms-1, 8 and 11, on account of revision in MAT rates and Return on Equity, for the 2019-24 tariff period have been submitted vide affidavit dated 4.5.2020.
 - g. UPPCL has filed its reply vide affidavit dated 28.12.2019 and rejoinder to UPPCL's reply has been filed vide affidavit dated 4.5.2020.
 - h. The Petitioner has filed un-notarized rejoinder to BRPL's reply on 17.5.2021 and requested the Commission to permit the submission of notarized rejoinder as soon as the COVID pandemic situation improves;
 - i. The Petitioner is not paying income tax region-wise rather pays income tax as one entity which means that current income tax is calculated after assessment of the company as a whole;
 - j. The Petitioner has submitted revised Form-3 after removal of inadvertent error of mentioning effective tax rate as zero in the earlier Form; and
 - k. Requested the Commission to allow the truing up and determination of tariff for 2014-19 and 2019-24 period, as claimed in the petition.
3. Learned Counsel for BRPL made the following submissions:
- a. The transmission tariff trued-up for the 2009-14 period vide order dated 17.2.2016 in Petition No. 544/TT/2014 is not as per the Regulation 6(1) of the 2009 Tariff Regulations;
 - b. There is no provision for approval of accrual IDC;
 - c. Acknowledged the receipt of rejoinder copy in Petition No. 24/TT/2020 and argued that there is no provision for current tax liabilities (related to tax on transmission business) in the Balance Sheet and payment of tax in the Profit and Loss Accounts during the 2014-19 tariff period in respect of NR-I, NR-II and NR-III filed by the Petitioner;
 - d. Documents filed by the Petitioner are certified by the Chartered Accountant and the Commission while determining tariff may consider only the tax paid on transmission business and not on the entire business of the Petitioner company in accordance with Regulation 25(1) of the 2014 Tariff Regulations; and
 - e. The arguments extended by the Respondent in earlier petitions pertaining to IND AS, deferred tax liability, over payment of income tax, tariff determination for the 2019-24 tariff period, annual truing up by transmission licensee during 2019-24 period etc. may be considered in this petition also.



4. The representative of the Petitioner made the following submissions in response to the submissions made by the learned counsel for BRPL:

a) Correct asset names have been submitted against the asset names as mentioned by BRPL in its reply;

b) ACE details with respect to assets have been filed in response to Technical Validation letter;

c) Copy of Income Tax Returns (ITRs) and Assessment Orders (AOs) for 2014-15 to 2018-19 period as submitted vide affidavit dated 10.8.2020 in Petition No. 24/TT/2020 have been re-submitted in the instant petition;

d) In accordance with Regulation 25(1) of the 2014 Tariff Regulations, the Petitioner is grossing up effective tax rate in the respective financial years as per the applicable MAT rate;

e) After availing tax holidays benefits under section 80IA of the Income Tax Act, 1961 (IT Act), the Petitioner is still required to pay income tax at the MAT rate with respect to which details have been submitted vide un-notarized affidavit dated 17.5.2021 in instant petition and affidavit dated 10.8.2020 in Petition No. 24/TT/2020;

f) In accordance with Section 2(31) read with Section 139(1) of the Income Tax Act, 1961, the Petitioner is filing single ITR against its business income under PAN allotted to it and as per the IT Act, it is not required to file separate ITR on transmission business for a particular region because it is having a single PAN. Further, there is no provision in the IT Act which requires filing of separate ITRs on the basis of the nature of the business being undertaken by an entity; and

g) As regards adoption of IND AS and deferred tax liability raised by BRPL, the Petitioner requested to consider the reply submitted by it vide affidavit dated 10.8.2020 in Petition No. 24/TT/2020.

5. In response to a query of the Commission, the representative of the Petitioner submitted that ACE is part of the original Investment Approval and the work has been completed before cut-off date. The Commission observed that ACE is claimed even after more than 5 years of the COD of the transmission asset and directed the Petitioner to expedite the payment to the contractors and close all contracts within the cut-off date or within a period of less than one year from the date of completion of the work. The Commission also directed the representative of the Petitioner to bring this aspect to the notice of its Management.

6. In response to a query of the Commission, the representative of the Petitioner submitted that various ITRs, detailed assessment orders and other tax documents substantiating the filing of Income tax by the Petitioner on consolidated basis and not on region-wise basis have been filed in this petition also and Balance Sheets, etc. on region-wise basis have been filed in Petition No. 24/TT/2020.



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

By order of the Commission

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

