

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 697/TT/2020

- Subject** : Petition for truing up of transmission tariff of 2014-19 tariff period and determination of transmission tariff of 2019-24 tariff period for Jhajjar-Mundka 400 kV D/C Transmission Line
- Date of Hearing** : 15.6.2021
- Coram** : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Pravas Kumar Singh, Member
- Petitioner** : Aravali Power Company Pvt. Ltd. (APCPL)
- Respondents** : Haryana Power Purchase Centre Ltd. & 3 Others
- Parties Present** : Ms. Poorva Saigal, Advocate, APCPL
Ms. Tanya Sareen, Advocate, APCPL
Shri R. B. Sharma, Advocate, BRPL
Shri Anzum Zargar, APCPL
Ms. Megha Bajpeyi, BYPL

Record of Proceedings

Case was called out for virtual hearing.

2. Learned counsel for the Petitioner made the following submissions:
- a. The instant petition is filed for truing up of transmission tariff of 2014-19 tariff period and determination of transmission tariff of 2019-24 tariff period of Jhajjar-Mundka 400 kV D/C Transmission Line;
 - b. No Additional Capital Expenditure is claimed in 2019-24 tariff period;
 - c. BRPL has filed its un-notarized reply in the matter on 14.6.2021 and has raised certain issues, primarily the issue of grossing up of Return on Equity (RoE) along with Minimum Alternate Tax, on which the Commission has already taken a view in PGCIL's matters; and
 - d. Prayed for the Commission's leave to file rejoinder in two weeks' time.
3. Learned counsel for BRPL referred to the reply filed and made the following oral submissions:
- a. As regards the submissions of the learned counsel for the Petitioner that the MAT rate approved in case of PGCIL has been considered by the Petitioner, he submitted that each and every case carries its own facts and figures.



- b. Referring to the Commission's order dated 15.3.2017 in Petition No. 438/TT/2014 on the issue of grossing up of RoE, he submitted that the grossing up of the tax was denied in the instant case during 2010-11 period as no tax was paid by the Petitioner during the period. The Petitioner did not file any petition for truing up of the 2009-14 period and has filed petition only for tariff determination of 2014-19 period, yet the Commission thought it fit to true up and disallowed the grossing up of RoE in the aforementioned order;
 - c. Petitioner has not furnished any document to show payment of tax on transmission business as mandated by APTEL in judgment dated 10.2.2015 in Appeal No. 13 of 2014.
 - d. An appeal has been filed before APTEL on the envisaged tax provisions;
 - e. Petitioner's assessment on GST claim from 1.7.2017 to 31.3.2018 and 2018-19 period may be rejected as the claim is based on the impact of increase in indirect tax from 15% to 18% on all taxable service on actual O&M Expenses;
 - f. Petitioner has submitted that the promulgation of GST is a "Change in Law" event as decided in Commission's various orders. BRPL has questioned the applicability of directions/ provisions contained in the 2014 Tariff Regulations related to "Change in Law" to the facts of this case;
 - g. Without proving the inadequacy of the norms, any change in the O&M norms would amount to grant of unreasonable tariff to the Petitioner which would be against Section 61 of the Electricity Act, 2003.
 - h. Petitioner is having a generating station and there is no separate entity requiring a transmission license. So, if any tax has been paid on transmission business, it must be mentioned in the Profit & Loss Account;
 - i. Petitioner has statutory duty to undertake the true up of the grossed-up rate of RoE at the end of every financial year based on actual tax paid as per Regulation 31(3) of the 2019 Tariff Regulations; and
 - j. For smooth operation of bill payment, the Commission may lay down truing up procedure to be adopted by generating companies and transmission licensees.
4. Learned counsel for the Petitioner made the following submissions in response to the submissions made by the learned counsel for BRPL:
- a. Petitioner will submit Auditor's certificate in support of actual GST paid at the time of filing of the truing up petition;
 - b. Referring the Commission's order dated 17.5.2021 in Petition No. 8/TT/2020, BRPL's contentions towards grossing up of RoE have already been dealt by the Commission;
 - c. The MAT rates considered by the Commission in order dated 27.4.2020 in Petition No. 274/TT/2019, pertaining to PGCIL, have been adopted;
 - d. Profit and Loss Accounts and Balance Sheets will be furnished by the Petitioner, if so directed by the Commission.



5. The Commission directed BRPL to file notarized affidavit at the earliest and directed the Petitioner to file rejoinder to the reply filed by BRPL and the documents with regard to GST and income tax paid, its Profit & Loss Account and Balance Sheet by 5.7.2021, with an advance copy to the respondents. The Commission also directed the parties to comply with above directions within the specified timeline and observed that no further extension of time shall be granted.

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

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

