

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

**Review Petition No. 17/RP/2020
in
Petition No. 368/TT/2018**

Coram:

**Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member**

Date of Order: 16.09.2021

In the matter of:

Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of order dated 22.1.2020 in Petition No. 368/TT/2018.

And in the matter of:

Teestavalley Power Transmission Limited,
2nd Floor, Vijaya Building,
17, Barakhamba Road, New Delhi-110001

.....Review Petitioner

Vs.

1. PTC India Limited,
2nd Floor, NBCC Tower,
15, Bhikaji Cama Place, New Delhi-110066.
2. Energy and Power Department,
Government of Sikkim,
Kazi Road, Gangtok-737101, Sikkim.
3. Teesta Urja Limited,
2nd Floor, Vijaya Building,
17, Barakhamba Road, New Delhi-110001.
4. Sneha Kinetic Power Projects Pvt. Limited,
Sonam Complex, Jeevan Theng Marg Development Area,
Near Little Pixel International School,
Gangtok-737101, Sikkim.
5. Powergrid Corporation of India Limited,
Saudamini, Plot No.2, Sector 29,
Near IFFCO Chowk,
Gurgaon-122001, Haryana.



6. Punjab State Power Corporation Limited,
The Mall, Patiala-147001, Punjab.
7. Uttar Haryana Bijli Vitran Nigam Limited,
Vidyut Sadan, Plot No. C-16, Sector-6,
Panchkula-134109, Haryana.
8. Dakshin Haryana Bijli Vitran Nigam Limited,
Vidyut Sadan, Vidyut Nagar,
Hisar-125005, Haryana.
9. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula-134109, Haryana.
10. Ajmer Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Panchsheel Nagar,
Makarwali Road,
Ajmer-305004, Rajasthan.
11. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath,
Jaipur-302005, Rajasthan.
12. Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area,
Jodhpur-342003, Rajasthan.
13. Rajasthan Urja Vikas Nigam Limited,
Vidyut Bhawan, Janpath,
Jyoti Nagar Jaipur-302005, Rajasthan.
14. Uttar Pradesh Power Corporation Limited,
Shakti Bhawa, 14, Ashok Marg,
Lucknow-226001, Uttar Pradesh.

.....Respondents

For Review Petitioner: Shri Tarun Johri, Advocate, TPTL
Ms. Nehanjali Mishra, TPTL

For Respondents : None

ORDER

The Review Petitioner, Teesta Valley Power Transmission Limited (TPTL), has filed the instant petition for review of the order dated 22.1.2020 in Petition No.



368/TT/2018 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

Background

2. TPTL filed Petition No. 368/TT/2018 for determination of transmission tariff in respect of Circuit 1(b) of 400 kV D/C Teesta III-Rangpo Section up to LILO point at Rangpo (hereinafter referred to as “the transmission asset”) from the date of commercial operation (COD) i.e. 2.7.2018 to 31.3.2019 in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”). The tariff for the transmission assets was approved vide order dated 22.1.2020.

3. TPTL has filed the instant review petition contending that the Commission in the impugned order dated 22.1.2020 deducted an amount of ₹720.58 lakh from the expenditure on cash basis allowed as on COD while determining the capital cost of the transmission asset. TPTL has sought reinstatement of the said amount of ₹720.58 lakh in the capital cost of the transmission asset, revision of the capital cost and consequential transmission charges of the transmission asset.

4. The Review Petitioner has made the following prayers:

7.1 Allow the present Review Petition filed by TPTL and thereby, modify the Impugned Order dated 22.01.2020 passed by this Hon'ble Commission in Petition No. 368/TT/2018 to the extent as prayed for by TPTL under the Para 6 above.

7.2 Revise the transmission charges allowed vide the Impugned Order dated 22.01.2020 in line with the prayer made at Para 5.6 and 6.1 above, for recovery of the same on monthly basis in accordance with Regulation 43 of the 2014 Tariff Regulations and allow the sharing of the same by the beneficiaries and long term transmission customers in Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

7.3 Pass such other and further reliefs as permissible under the law.”



5. The impugned order was heard by coram of Shri P.K. Pujari, Chairperson; Dr. M.K. Iyer, Member; and Shri I.S. Jha, Member. Dr. M.K. Iyer, Member has demitted office. Hence, the instant review petition is heard by coram of Shri P.K. Pujari, Chairperson and Shri I.S. Jha, Member.

6. The review petition was admitted on 24.7.2020 and notice was issued to the Respondents. The Commission vide its order dated 24.7.2020 directed the Review Petitioner to submit on affidavit the statement of liability discharged year-wise. None of the Respondents have filed reply to the review petition.

Submissions of the Review Petitioner

7. The gist of submissions made by the Review Petitioner in its review petition vide affidavit dated 17.3.2020 is as follows:

(a) While determining the capital cost of the transmission asset i.e. circuit 1(b) of 400 kV D/C Teesta-III- Rangpo Section with Quad Moose Conductor upto LILO point at Rangpo, the Commission vide its order dated 22.1.2020 in Petition No. 368/TT/2018 has inadvertently deducted the liability amounting to ₹720.58 lakh from cash basis expenditure allowed by it as on COD.

(b) In the table under paragraph 14 of the impugned order, the Commission has reproduced the table submitted by Review Petitioner in its Auditor's Certificate dated 20.4.2019 and Form 5. Auditor's certificate submitted by the Review Petitioner is on accrued basis. However, while reproducing the data from the said Auditor's certificate and Form 5, the Commission under paragraph 14 has erred by not considering the liability amount of ₹720.58 lakh as on COD. The data contained in Form 5 is on cash basis.

(c) The details of accrued and cash expenditure is as follows:



(₹ in lakh)

Accrued Expenditure as on COD (As per Auditor's Certificate) (a)	Liability as on COD (As per Auditor's Certificate) (b)	Expenditure on cash basis as on COD (As indicated in Form 5) (c)=(a)-(b)
10806.10	720.58	10085.51

(d) In the table mentioned under paragraph 32 of the impugned order, the Commission has recognized the expenditure up to COD as ₹1080609172 and liabilities included in expenditure up to COD as ₹72058340. The Commission while calculating the capital cost of the project in paragraph 45 of the impugned order has inadvertently deducted liability amount of ₹720.58 lakh from the cash expenditure allowed by it as on COD. Paragraph 45 of the impugned order is extracted as follows:

"45. The capital costs as on COD considered for the purpose of tariff calculation after scrutiny of IDC and IEDC, initial spares and their liability is as follows.

(₹ in lakh)

Particular	Expenditure claimed as on COD	Capital cost allowed as on COD (Accrual Basis)	Un-discharged liability as on COD	Capital Cost allowed as on COD (Cash Basis)
Preliminary Works	2061.32	2061.32	80.08	1981.24
Transmission Line Material	4191.37	4191.37	319.76	3871.61
Total Hard Cost (a)	6252.69	6252.69	399.84	5852.85
Total IEDC (b)	515.71	515.71	42.71	473.00
IDC	3171.82	3171.82	278.03	2893.79
Notional IDC	48.82	-	-	-
Financial Charges	96.47	-	-	-
Total IDC (c)	3317.11	3171.82	278.03	2893.79
Total Capital Cost	10085.51	9940.22	720.58	9219.64

Therefore, the capital cost of ₹9219.64 lakh as on COD has been considered as per Regulation 9(2) of the 2014 Tariff Regulations for the purpose of computation of tariff."

(e) The cost of ₹10085.51 lakh is the cash expenditure up to COD and the cost of ₹9940.22 is the expenditure on cash basis allowed by the Commission



after deducting the cost disallowed under notional IDC and financing charges. Therefore, tariff is required to be determined on cash expenditure of ₹9940.22 lakh and not on ₹9219.64 lakh.

(f) In the background of above submissions, the Petitioner has prayed that amount of ₹720.58 lakh is liable to be reinstated in the capital cost and the capital cost of the transmission asset should be revised with consequential transmission charges.

8. The matter was heard through video conference on 20.7.2021 and order was reserved.

Analysis and Decision

9. Learned counsel for the Review Petitioner has contended that the Commission in the impugned order dated 22.1.2020 in Petition No. 368/TT/2018 while determining the capital cost of the transmission asset has erroneously deducted the liability amount of ₹720.58 lakh twice from the expenditure on cash basis allowed by it as on COD. Learned counsel pointed out the Auditor's certificate dated 20.4.2019 filed by the Review Petitioner vide affidavit dated 18.9.2019 in Petition No. 368/TT/2018 which shows that the expenditure incurred as on COD is ₹10806.10 lakh, estimated expenditure during 2018-19 is ₹68.71 lakh and the total estimated completion cost as on 31.3.2019 as ₹10874.81 lakh. Learned counsel submitted that the Review Petitioner vide affidavit dated 18.9.2019 had also submitted Form-5 wherein details of element-wise break up of Project/ Asset/ Element Cost for Transmission System was available. Learned counsel has further submitted that in terms of the order dated 24.7.2020 in the instant review petition, the Review



Petitioner, vide affidavit dated 4.8.2020, has submitted the following details of year-wise liability discharge in respect of the transmission asset:

(₹ in lakh)

Liability as on COD 02.07.2018	Liability discharged in 2018-19	Liability to be discharged in MYT 2019-24
720.58	409.19	311.39

10. The Review Petitioner has submitted that it is in the process of finalizing the true-up petition for 2014-19 period and tariff petition for 2019-24 period. It has been further submitted that balance of the liabilities of ₹311.39 lakh shown in the table above is anticipated to be discharged during 2019-24 tariff period and as such the Review Petitioner shall claim the discharge of liabilities in computation of tariff during the truing-up stage.

11. We have considered the submissions of the Review Petitioner and perused the impugned order dated 22.1.2020. On perusal of record, we find that the Commission vide impugned order dated 22.1.2020 in Petition No.368/TT/2018 has considered the claim of Actual Capital Expenditure on accrued basis of ₹10085.51 lakh as on COD as indicated in Form-5 in the original petition and deducted liability amount of ₹720.58 lakh along with notional IDC and financial charges of ₹145.29 lakh therefrom and allowed cash expenditure of ₹9219.64 lakh as on COD. We further notice that total capital expenditure as indicated by the Review Petitioner in Form-5 did not match with the capital expenditure claimed as per Auditor's Certificate. 'Actual Capital Expenditure' in Form-5 appended with the 2014 Tariff Regulations includes element-wise break-up of Project/ Asset/ Element cost for Transmission System or Communication System wherein 'cost incurred' means cost incurred on 'accrued basis' and it has no relation with the cost incurred on 'cash basis'. In view of above, the Commission in the impugned order took a view to



consider capital cost as per Form-5.

12. The Review Petitioner has submitted that 'Actual Capital Expenditure' of ₹10085.51 lakh as per Form-5, as mentioned in the preceding paragraph, was claimed on 'cash basis' and liability amount of ₹720.58 lakh was excluded from it. In view of this, the Review Petitioner has prayed to reinstate the said amount of ₹720.58 lakh in capital cost and revise the transmission tariff in respect of the transmission asset.

13. In the light of submissions of the Review Petitioner, we notice that liability amount of ₹720.58 lakh was inadvertently deducted in our order dated 22.1.2020 in Petition No.368/TT/2018 and the same is, therefore, liable to be reinstated.

14. The Review Petitioner by way of affidavit dated 4.8.2020 has submitted that it shall claim the discharge of liabilities in computation of tariff during the truing-up stage.

15. The Review Petitioner has already filed Petition No. 35/TT/2021 for truing up of the transmission asset. This petition was heard on 15.6.2021 and in terms of the directions given by the Commission vide RoP dated 15.6.2021 in Petition No. 35/TT/2021, the Review Petitioner has filed revised Form 5 vide affidavit dated 12.7.2021, which reconciles with the figures reflected in the Auditor's Certificate as mentioned in the impugned order dated 22.1.2020 in Petition No.368/TT/2018.

16. Accordingly, the liability amount of ₹720.58 lakh shall be reinstated in the capital cost of the transmission asset with resultant transmission charges in Petition



No. 35/TT/2021 filed for truing up of the transmission asset for 2014-19 period. Accordingly, the Review Petitioner shall claim the discharge of liabilities in computation of tariff during the truing-up stage.

17. In view of our above discussions and findings, Review Petition No. 17/RP/2020 is disposed of.

sd/-
(I.S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson

