

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 359/TT/2020

Subject : Petition for truing up of transmission tariff of 2014-19 tariff period and determination of transmission tariff of 2019-24 period for nine number of assets under “Northern Region System Strengthening Scheme-XIX”.

Date of Hearing : 6.1.2022

Coram : Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. 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, UPPTCL
Shri Mohit Mudgal, Advocate, UPPTCL
Shri Sachin Dubey, Advocate, UPPTCL
Shri S.S Raju, PGCIL
Shri D.K. Biswal, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A.K. Verma, PGCIL

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner made the following submissions:
 - a. Instant petition has been filed for truing up of transmission tariff of 2014-19 tariff period and determination of transmission tariff of 2019-24 period in respect of the following assets under “Northern Region System Strengthening Scheme-XIX” in Northern Region:
 - Asset-1: 80 MVAR Bus Reactor at Kaithal Sub-station;
 - Asset-2: LILO of both circuits of 400 kV D/C (QUAD) Meerut-Kaithal 400 kV D/C TL and associated bays at Bagpat GIS Sub-station, 125 MVAR Bus



Reactor at Bagpat GIS Sub-station and 500 MVA 400/220 kV ICT-I at Bagpat GIS Sub-station along with 1 number of 220 kV line bays;

Asset-3: 500 MVA 400/220 kV ICT-II at Bagpat GIS Sub-station alongwith associated bays;

Asset-4: Two number of 220 kV line bays associated with Bagpat GIS;

Asset-5: One number of 220 kV line bays (205 number bay) associated with Baghpat GIS Sub-station;

Asset-6: One number of 220 kV line bays (210 number bay) associated with Baghpat GIS Sub-station;

Asset-7: One number of 220 kV line bays (206 number bay) associated with Baghpat GIS Sub-station;

Asset-8: One number of 220 kV line bays (207 number bay) associated with Baghpat GIS Sub-station; and

Asset-9: One number of 220 kV line bays (212 number bay) associated with Baghpat GIS Sub-station.

b. Assets-1, 2, 3, 4, 5, 6, 7, 8 and 9 were put under commercial operation on 1.7.2011, 8.5.2016, 3.7.2016, 11.9.2016, 3.7.2016, 3.7.2016, 20.8.2016, 26.1.2017 and 26.1.2017 respectively.

c. Tariff for 2014-19 tariff period was determined for Asset-1 vide order dated 14.3.2016 in Petition No. 478/TT/2014, for Asset-2 vide order dated 30.6.2016 in Petition No. 253/TT/2015, for Assets-3 and 4 vide order dated 13.10.2017 in Petition No. 221/TT/2016 and for Assets-5, 6, 7, 8 and 9 vide order dated 1.10.2019 in Petition No. 268/TT/2018.

d. Time over-run in case of Asset-2 was condoned vide order dated 30.6.2016 in Petition No. 253/TT/2015 and in respect of Assets-5, 6, 7, 8 and 9, it was condoned vide order dated 1.10.2019 in Petition No. 268/TT/2018. However, time over-run in case of Assets-3 and 4, vide order dated 13.10.2017 in Petition No. 221/TT/2016, was condoned till 22.7.2015 and the Commission had granted liberty to the Petitioner to submit complete and clear chronology of events for delay in respect of Assets-3 and 4. Justifications for delay along with details of court cases have been given in the instant petition. Additional justifications for time over-run in case of Assets-3 and 4 have been submitted in rejoinder dated 1.11.2021 to the reply filed by UPPTCL. The delay was mainly on account of land acquisition and RoW issues.

e. In Petition No. 253/TT/2015, the time over-run in case of Asset-2 till 8.5.2016 was due to the same reasons as in the case of Assets-3 and 4. Delay in the case of Assets-3 and 4 after May 2016 was on account of matching their COD with the downstream system of UPPTCL. For similar reasons, delay from 9.5.2016 to



3.7.2016 in respect of Assets-5 to 9 was condoned by the Commission vide order 1.10.2019 in Petition No. 268/TT/2018.

f. Continuous communications were sent to UPPTCL and the issue was also raised during 38th and 39th SCM meeting held on 30.5.2016 and 30.5.2017 respectively wherein UPPTCL informed that 220 kV downstream network would be ready in July 2017 based on which the Petitioner put its assets into commercial operation. Time over-run of 52 months and 17 days in respect of Asset-3 and of 54 months and 25 days in case of Asset-4 may be condoned.

g. There is variation in admitted and claimed capital cost as on 31.3.2014 and the same was due to IDC and IEDC for Asset-4 which was to be paid by UPPTCL. The same has been recovered from UPPTCL and cost of Asset-4 has been reduced. Initial Spares disallowed for Assets-1, 5, 6, 7, 8 and 9 have been added back to the capital cost.

h. IEDC restricted for Assets-5, 6, 7, 8 and 9 has been reclaimed based on the judgment of APTEL dated 2.12.2019 in Appeal Nos. 95 of 2018 and 140 of 2018.

i. Initial Spares have been calculated on overall project cost basis and the deductions made earlier have been added back with reference to Assets-5 to 9.

j. Overall cost of the project as on 31.3.2024 is within the RCE approved cost that was approved by the Board of Directors of the Petitioner on 9.3.2016.

k. Liability flow statement has been submitted vide reply dated 3.12.2020 to Technical Validation letter along with revised Auditor's certificate for Asset-2 which includes the revised ACE for the said asset.

l. UPPTCL has been impleaded as party to the present petition and revised memo of parties has been filed.

m. 2 bays pertaining to Assets-7 and 8 are yet to be put into commercial operation by UPPTCL. As per the directions of the Commission in order dated 1.10.2019 in Petition No. 268/TT/2018, UPPTCL must bear the transmission charges till the COD of the downstream system.

n. Additional information has been submitted vide affidavit dated 22.9.2021.

o. UPPTCL has filed Appeal No. 264 of 2021 before the APTEL against the order dated 1.10.2019 in Petition No. 268/TT/2018 regarding the direction of the Commission to bear the transmission charges till COD of the downstream system and the same is pending adjudication. So far, UPPTCL has not paid the bilateral bills raised on it and as such subject to outcome of the said Appeal, UPPTCL may be directed to pay the transmission charges.

p. Rejoinder to the reply of UPPTCL has been filed vide affidavit dated 1.11.2021.

3. In response to a query of the Commission, the representative of the Petitioner submitted that in the course of LILO work of Asset-4 at Baghpat Sub-station, there was



intrusion from local villagers and farmers and subsequent time over-run was due to matching with the downstream system.

4. Learned counsel for UPPTCL referred to his reply and made the following submissions:

a. Appeal No. 264 of 2021 has been filed by UPPTCL before the APTEL against the Commission's order dated 1.10.2019 in Petition No. 268/TT/2018. The Petitioner has also filed Appeal No. 445 of 2019 against the Commission's order dated 1.10.2019 in Petition No. 268/TT/2018 on the issue of IEDC.

b. The transmission licensees have been allowed huge tax benefits under Section 80IA of the Income Tax Act, 1961 in the form of Tax Holiday and other benefits like higher depreciation in the initial years. However, the benefits arising out of the Tax Holiday are not being passed on to the beneficiaries. The Petitioner should file the Profit and Loss Statement clearly indicating the tax paid on the transmission business.

c. Petitioner's claim for delay on the grounds of land acquisition and RoW with reference to Assets-2, 3 and 4 may be rejected as the same are controllable factors.

d. IDC and IEDC for the period of time over-run may be disallowed.

e. As per Section 38 of the Electricity Act, 2003, CTU is responsible for planning and coordination relating to ISTS. CTU and PGCIL are one and the same entity and as such the Petitioner should be held responsible for the period of mismatch of Assets-3 and 4 and the downstream system.

f. In order dated 1.10.2019 in Petition No. 268/TT/2018, the Commission granted COD for Assets-5, 6, 7, 8 and 9. The Petitioner cannot add the capital cost of these assets to the capital cost of the project as per the second proviso of Regulation 4(3) of the 2014 Tariff Regulations as these assets are not being utilized as per Regulation 9(6)(a) of the 2014 Tariff Regulations.

g. RCE produced by the Petitioner does not provide any justification for increase in the cost and is arbitrary.

h. Accrued IDC is not permissible as per the 2014 Tariff Regulations.

i. Initial Spares cannot be allowed on the basis of the judgment of APTEL dated 14.9.2019 in Appeal No. 74 of 2017 as it refers to 2009 Tariff Regulations.

j. The Petitioner has not furnished information regarding OPGW.

k. Form 3 submitted in its present form does not permit grossing up of RoE for trueing up period. The Petitioner has claimed grossing up of RoE in various petitions including Petition No. 24/TT/2020 without placing on record the documents relating to actual tax paid. It is obligatory for the Petitioner to place on record region-wise corporate audited balance sheet, profit and loss accounts with



all schedules and annexures of new Transmission System & Communication System for the relevant years as it is a statutory requirement.

l. The Petitioner has opted for deemed cost exemption as per para D7 AA of IND AS 101 'First Time Adoption' of Indian Accounting Standard. Indian Accounting Standards is for the purposes of Companies Act, 2013 and not for the purposes of the 2014 Tariff Regulations or 2019 Tariff Regulations. Adoption of Indian Accounting Standards is increasing the tariff.

m. Deferred tax liability for the transmission business is to be dealt in accordance with Regulation 49 of the 2014 Tariff Regulations.

n. Time is sought by UPPTCL to file its Written Submissions.

5. In response, the representative of the Petitioner submitted that most of the issues raised by the Petitioner have already been covered by various orders of the Commission. RCE was prepared in March, 2016 which is much before the completion of the project. On other issues raised by UPPTCL, the Petitioner reiterated its submissions.

6. The Commission permitted UPPTCL to file its Written Submissions by 24.1.2022 with advance of the same to the Petitioner and the Petitioner may file its counter submissions, if need be, by 31.1.2022.

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

By order of the Commission

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

