

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Review Petition No. 15/RP/2021

in

Petition No. 84/TT/2020

Coram:

**Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P.K. Singh, Member**

Date of Order: 12.08.2022

In the matter of:

Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 17 And 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking review of the order dated 8.2.2021 in Petition No. 84/TT/2020.

And in the matter of:

Power Grid Corporation of India Limited,
SAUDAMINI, Plot No-2,
Sector-29, Gurgaon-122 001 (Haryana).

.....Review Petitioner

Versus

Eastern Region Beneficiaries:

1. Bihar State Power (Holding) Company Limited,
(Formerly Bihar State Electricity Board -BSEB),
Vidyut Bhavan, Bailey Road, Patna-800001.
2. West Bengal State Electricity Distribution Company Limited,
Bidyut Bhawan, Bidhan Nagar,
Block DJ, Sector-II, Salt Lakecity,
Calcutta-700091.
3. Grid Corporation of Orissa Limited,
Shahid Nagar, Bhubaneswar-751007.
4. Jharkhand State Electricity Board,
In front of Main Secretariat ,
Doranda, Ranchi-834002.



5. Damodar Valley Corporation,
DVC Tower, Maniktala,
Civic Centre, VIP Road, Calcutta-700054.
6. Power Department,
Government of Sikkim, Gangtok-737101.

Northern Region and Western Region Beneficiaries

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg, Jaipur-302005.
2. Ajmer Vidyut Vitran Nigam Limited,
400 kv GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur- 302005.
3. Jaipur Vidyut Vitran Nigam Limited,
400 kv GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur-302005.
4. Jodhpur Vidyut Vitran Nigam Limited,
400 Kv GSS Building (Ground Floor), Ajmer Road,
Heerapura, Jaipur-302005.
5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171004.
6. Punjab State Power Corporation Limited,
Thermal Shed Tia, Near 22 Phatak,
Patiala-147001.
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana)-134109.
8. Power Development Department,
Government of Jammu & Kashmir,
Mini Secretariat, Jammu.
9. Uttar Pradesh Power Corporation Limited,
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226001.
10. Delhi Transco Limited,
Shakti Sadan,
Kotla Road, New Delhi-110002.
11. BSES Yamuna Power Limited,
BSES Bhawan, Nehru Place,
New Delhi.



12. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
New Delhi.
13. North Delhi Power Limited,
Power Trading & Load Dispatch Group,
Cennet Building, Adjacent to 66/11 kV Pitampura-3,
Grid Building, Near PP Jewellers,
Pitampura, New Delhi-110034.
14. Chandigarh Administration,
Sector-9, Chandigarh.
15. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun.
16. North Central Railway,
Allahabad.
17. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110002.
18. Madhya Pradesh Audyogik Kendra,
Vikas Nigam (Indore) Limited,
3/54, Press Complex, Agra-Bombay Road,
Indore-452008.
19. Chhattisgarh State Electricity Board,
P.O.Sunder Nagar, Dangania, Raipur
Chhatisgaarh-492013.
20. Electricity Department,
Administration of Dadra Nagar Haveli,
U.T., Silvassa-396230.
21. Electricity Department,
Administration of Daman & Diu,
Daman-396210.
22. Electricity Department,
Government of Goa, Vidyut Bhawan,
Panaji, Near Mandvi Hotel, Goa-403001.
23. Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhawan,
Race Course Road,
Vadodara-390007.
24. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, 4th Floor,
Andheri (East), Mumbai-400052.



25. Madhya Pradesh Power Management Company Limited,
Shakti Bhawan, Rampur,
Jabalpur-482008.

26. National Thermal Power Corporation,
4th Floor, 06th Core,
NTPC Bhawan, Scope Complex,
Institutional Area , Lodhi Road, Delhi-110003.

....Respondents

For Review Petitioner : Ms. Swapna Sheshadari, Advocate, PGCIL
Shri Aditya H. Dubey, Advocate, PGCIL
Shri S. S. Raju, PGCIL
Shri D. K. Biswal, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A. K. Verma, PGCIL

For Respondent : Shri Anindya Khare, MPPMCL.

ORDER

Power Grid Corporation of India Limited (PGCIL) has filed the present review petition seeking review and modification of the order dated 8.2.2021 in Petition No. 84/TT/2020 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.

2. The Review Petitioner has stated that the Commission in order dated 8.2.2021 had considered the transmission line portion of the Combined Asset-I and Combined Asset-II separately for the purpose of Initial Spares and allowed Initial Spares of ₹1527.15 lakh for the transmission line against its claim of ₹1642.74 lakh, as a result the Initial Spares was reduced by ₹282.95 lakh. The Review Petitioner has contended that non-consideration of the transmission portion of the Combined Asset-I and Combined Asset-II together is an apparent error and it is against the spirit of the Appellate Tribunal for Electricity's (APTEL) judgement dated 14.9.2019 in Appeal No. 74 of 2017.



Background

3. The brief facts of the matter are as follows:
- a. PGCIL filed Petition No. 84/TT/2020 for truing-up of tariff for the period from 1.4.2014 to 31.3.2019 under Regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and for determination of tariff for the period from 1.4.2019 to 31.3.2024 under Regulation 8 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 in respect of the following assets under “Barh Transmission System” in the Northern, Eastern and Western Region (hereinafter referred to as ‘the transmission system’):

Asset-I: Pole-I of + 500 kV, 2500 MW Ballia-Bhiwadi HVDC Bipole;

Asset-II: Pole-II of + 500 kV, 2500 MW Ballia-Bhiwadi HVDC Bipole;

Asset-III: LILO of Kahalgaon-Patna 400 kV D/C (Quad) line at Barh Sub-station;

Asset-IV: 765 kV S/C Seoni-Bina Transmission Line; and

Asset-V: Barh-Ballia 400 kV D/C (Quad) line alongwith associated bays at Ballia Sub-station.

- b. The scope of work covered under the transmission system is as follows:

Transmission line

- i. LILO of Bina - Nagda at Shujalpur
- ii. LILO of Kahalgaon-Patna 400 kV D/C (Quad) line at Barh
- iii. Barh-Ballia 400 kV D/C (Quad) line
- iv. Ballia-Bhiwadi 2500 MW \pm 500 kV HVDC Bipole line
- v. Seoni-Bina 765 kV S/C line (to be initially charged at 400 kV)
- vi. Two nos. 66 kV Earth Electrode lines (one each at Balia and Bhiwadi 02 conductors of Twin Moose for each line)



Sub-stations

- i. Ballia 400 kV Sub-station Extension
- ii. Bhiwadi 400/220 kV Sub-station Extension
- iii. Seoni 400 kV Sub-station Extension
- iv. Bina 400 kV Switching Station Extension
- v. Ballia and Bhiwadi Converter Stations including Earth Electrode Stations and Repeater Stations
- vi. Barh 400 kV Switchyard extension (NTPC) – Provision of Power Line Carrier Communication.

- c. The entire scope covered in the transmission scheme is completed and all the assets are covered in Petition No. 84/TT/2020.
- d. The Petitioner in Petition No. 84/TT/2020 had prayed to revise the Initial Spares allowed earlier in light of the APTEL's judgement dated 14.9.2019 in Appeal No. 74 of 2017 and claimed the following Initial Spares for the transmission assets:

Asset	Capital Cost as on cut-off date (₹ in lakh) (A)	Initial Spares Claimed by the Petitioner (₹ in lakh) (B)	Ceiling limit (%) (C)	Initial Spares worked out by the Petitioner
				$D = [(A-B)*C/(100-C)]$ (₹ in lakh)
For Transmission line				
Combined Asset-I	88445.67	946.29	0.75	661.2
Asset-III	18063.91	173.00	0.75	135.2
Asset-IV	38936.63	0.00	0.75	294.23
Asset-V	73186.85	407.86	0.75	549.97
Total	218633.06	1527.15		1640.6
For Sub-station				
Combined Asset-I	173704.32	4836.94	3.50 (HVDC)	6124.72
Asset-III	38.37	0.00	2.50	0.98
Asset-IV	2098.31	202.42	2.50	48.61
Asset-V	1169.85	20.99	2.50	29.46
Total	177010.85	5060.35		6203.78

- e. APTEL in its judgement dated 14.9.2019 in Appeal No. 74 of 2017 observed that the Commission for the purpose of prudence check may



restrict the Initial Spares to the cost of the individual asset and later at the time of truing up allow Initial Spares as per the ceiling limits on the overall project cost. The relevant portion of the said judgement is as follows:

“18.13. We do not agree with this methodology of restricting initial spares asset / element wise as adopted by the Central Commission. The Central Commission to have a prudence check on the initial spares, being restricted based on the individual asset wise cost initially, but subsequently ought to have allowed as per the ceiling limits on the overall project cost basis during the true-up.”

- f. Initial Spares were allowed on the basis of the overall project cost during the 2019-24 tariff period when the transmission assets are combined as Combined Asset-I and Combined Asset-II and the overall project cost is arrived at. However, even in 2019-24 tariff period, the Combined Asset-I and Combined Asset-II were not combined because of the separate sharing mechanism for HVAC and HVDC assets. The following Initial Spares were allowed as per the APTEL’s judgement dated 14.9.2019 in Appeal No. 74 of 2017:

Asset	Capital Cost as on cut-off date (₹ in lakh) (A)	Initial Spares Claimed (₹ in lakh) (B)	Ceiling limit (%) (C)	Initial Spares worked out	Initial Spares Allowed (₹ in lakh) (E)	Initial Spares allowed earlier (₹ in lakh) (F)	Excess Initial Spares Allowed (₹ in lakh)
				$D = [(A-B)*C/(100-C)]$			
For Combined Asset-I							
For Transmission line							
Asset-I	88728.62	946.29	0.75	663.34	663.34	663.34	0.00
Asset-II	0.00	0.00	0.75	0.00	0.00	0.00	0.00
Total	88728.62	946.29		663.34	663.34	663.34	0.00
For Sub-station (HVDC)							
Asset-I	124311.91	4069.76	3.50	4361.11	4069.76	4069.76	0.00
Asset-II	43209.27	767.27	3.50	1539.35	767.27	767.27	0.00
Total	167521.18	4837.03		5900.46	4837.03	4837.03	0.00
For Combined Asset-II							
For Transmission line							
Asset-III	18067.72	173.00	0.75	135.22	173.00	135.22	37.78
Asset-IV	38933.34	0.00	0.75	294.21	0.00	0.00	0.00



Asset-V	73186.85	407.86	0.75	549.97	407.86	407.86	0.00
Total	130187.91	580.86		979.40	580.86	543.08	37.78
For Sub-station							
Asset-III	38.37	0.00	2.50	0.98	0.00	0.00	0.00
Asset-IV	2201.66	202.42	2.50	51.26	60.71	51.26	9.45
Asset-V	1169.85	20.99	2.50	29.46	20.99	20.99	0.00
Total	3409.88	223.41		81.70	81.70	72.25	9.45

g. Thus, in compliance with APTEL's judgement dated 14.9.2019 in Appeal No. 74 of 2017, additional Initial Spares of ₹47.23 lakh (₹37.38 lakh plus ₹9.25 lakh for the Combined Asset-II) was allowed.

4. Aggrieved with the Commission's order dated 8.2.2021, PGCIL has preferred the present review petition. PGCIL has made the following prayers:

“(a) Admit the present Review Petition;

(b) Review the order dated 08.02.2021 passed by this Hon'ble Commission;

(c) Recompute the initial spares and delete the restriction of Initial Spares for the Transmission Line head to 282.95 Lakhs;

(d) Pass such other further order(s) as the Hon'ble Commission may deem just in the facts of the present case.”

5. The matter was heard through video conference on 20.1.2022 and was admitted and notice was issued to the Respondents. However, none of the Respondents have filed any reply in the matter. The matter was again heard on 29.3.2022 and order was reserved. However, in Record of Proceedings of hearing dated 29.3.2022, inadvertently it was wrongly recorded that order is reserved on admissibility.

6. On 29.3.2022, the matter was heard by the Coram consisting of Shri P.K. Pujari, Chairperson, Shri I.S. Jha, Member and Shri Arun Goyal, Member. However, order could not be issued in the matter before Shri P.K. Pujari, Chairperson demitted his office on 11.6.2022. Therefore, the matter was again heard by Shri I.S. Jha,



Member, Shri Arun Goyal, Member and Shri P.K. Singh, Member on 23.6.2022 and order was reserved in the matter.

Submissions of the Review Petitioner:

7. The gist of the submissions made by the Review Petitioner in support of the Review Petition is as follows:

- a) The Review Petition is preferred with respect to the limited issue of restriction of Initial Spares claimed by ₹282.95 lakh even though the Initial Spares claimed for transmission line was ₹1527.15 lakh which was well within the ceiling of ₹1642.74 lakh. Further, the above determination is also against the principles decided by the APTEL in the judgment dated 14.9.2019 in Appeal No. 74 of 2017. Not following the APTEL's decision is an error apparent on the face of record.
- b) The Commission in order dated 8.2.2021 in Petition No. 84/TT/2020 allowed the Initial Spares in the 2019-24 tariff period as per APTEL's judgement when the project cost is arrived at. However, there is an incorrect restriction of the Initial Spares which is against the APTEL's judgment dated 14.9.2019.
- c) The Initial Spares claimed for the transmission line (TL) was ₹1527.15 lakh which is within the limit of ₹1642.74 lakh, and therefore no restriction of Initial Spares under TL head is applicable. However, the Commission has restricted the Initial Spares by ₹282.95 lakh under TL head. This segregation seems to be based on the distinction between HVDC and HVAC transmission lines, which form part of the present petition.
- d) The APTEL's Judgment dated 14.9.2019 has not been followed in letter and spirit while computing the Initial Spares, which states that the Initial Spares



are to be allowed as a percentage of the total project cost in accordance with the Tariff Regulations.

e) The 2009 Tariff Regulations as well as the 2014 Tariff Regulations provide for different norms for Initial Spares for HVAC sub-station and HVDC sub-station systems. But there is no such separate norm for Initial Spares under TL head for HVDC/ HVAC and thus the Initial Spares claimed either under HVDC or HVAC line need to be treated in one category. The difference, if any, is only in the manner of sharing of transmission charges between an HDVC and HVAC system. However, for the purposes of tariff determination, there is no such distinction and making such distinction is contrary of the principle laid down by APTEL.

Analysis and Decision

8. We have heard the learned counsel for the Review Petitioner, considered the submissions made and have perused the material available on record including order dated 8.2.2021. The Review Petitioner has sought review of the impugned order on the ground that the Commission had wrongly restricted the Initial Spares claimed by the Review Petitioner by ₹282.95 lakh in case of Combined Asset-I and it is because of not following the APTEL's judgment dated 14.9.2019 while computing the Initial Spares for the transmission lines covered in the transmission system.

9. Learned counsel for the Review Petitioner has contended that APTEL in its judgment dated 14.9.2019 in Appeal No. 74 of 2017 enunciated the principle that the Commission with a view to have prudence check on the Initial Spares may allow the same by restricting them on individual cost of the assets initially and that subsequently they ought to be allowed as per the ceiling on the overall project cost during truing up.



Learned counsel further contended that Initial Spares claimed for the transmission line was ₹1527.15 lakh and it was within the limit of ₹1642.74 lakh as a result of which the Commission was not justified in restricting the Initial Spares under TL head. However, the Commission has restricted the Initial Spares by ₹282.95 lakh under TL head and this segregation seems to be based on the distinction between HVDC and HVAC transmission lines, which form part of the present petition. Learned counsel has contended that the 2009 Tariff Regulations and the 2014 Tariff Regulations lay down different norms for Initial Spares with reference to HVAC sub-station and HVDC sub-station systems. Learned counsel emphasised on the need to consider Initial Spares under TL head in one category for both HVDC and HVAC line by reason of the fact that no such separate norms are there in existence under the Tariff Regulations for them. Learned counsel contended that differentiation is there with regard to sharing of transmission charges between HVDC and HVAC systems and that for tariff determination no such distinction can be drawn and doing such is violative of principle laid down by APTEL in its judgement dated 14.9.2019 in Appeal No. 74 of 2017.

10. We have considered the submissions of the Petitioner.

11. APTEL in judgement dated 14.9.2019 in Appeal No. 74 of 2017 observed as follows:

“8.13.The Central Commission to have a prudence check on the initial spares, being restricted based on the individual asset wise cost initially, but subsequently ought to have allowed as per the ceiling limits on the overall project cost basis during the true-up.”

Accordingly, we have been allowing Initial Spares in light of the APTEL judgment dated 14.9.2019 in Appeal No. 74 of 2017 whenever the overall project cost is arrived at.



12. The Commission vide order dated 8.2.2021 in Petition No. 84/TT/2020 has taken cognizance of the APTEL judgement. However, while allowing initial spares towards transmission line, the commission treated HVDC and HVAC separately and restricted the initial spares towards HVDC transmission line. However, while there is different categories of HVDC Substation and HVAC Substations, but as per Regulation 13(d) of the 2014 Tariff Regulations, there is no distinction between HVDC and HVAC transmission line for initial spares and separate initial spares are mentioned only for Substation. We are of the view that there is an error apparent on the face of record by treating transmission line of HVDC and HVAC separately. . In view of the above and APTEL's judgement dated 14.9.2019, the capital cost of the transmission lines under the HVDC and HVAC shall be considered together, as they are part of same project, for the purpose of computation of Initial Spares and the Initial Spares allowed earlier vide order dated 8.2.2021 in Petition No. 84/TT/2020 will be reconsidered at the time of truing up of tariff of 2019-24 period.

13. The Petitioner is directed to submit the revised claim for the Initial Spares as per APTEL judgment in Appeal No. 74 of 2017 at the time of filing of truing up petition for 2019-24 tariff period.

14. This order disposes of Petition No. 15/RP/2021 in terms of the above discussions and findings.

sd/-
(P.K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

