

TARIFF REGULATIONS

2009 - 2014

PRESENTATION BY DAMODAR
VALLEY CORPORATION
(DVC)

SPECIAL STATUS OF DVC

- Statutory Body under Damodar Valley Corporation Act, 1948 (“DVC” Act)
- Multifarious functions including functions ordinarily discharged by sovereign (State, Municipal, local authorities)
- Sourcing, deployment and utilization of funds pin in the DVC Act
- Supervision and control of DVC under the DVC Act provided for by three Governments and authorities such as CAG to the three Governments
- DVC utilizes internal accruals for activities enjoined on it under the DVC Act and not for dividend or profit sharing
- DVC not commercial organization and funding and revenues of DVC cannot be based only on commercial principles

DVC ACT - IMPLICATIONS

- Provisions of DVC Act to be given effect
- Part IV of the DVC Act to be read as a part of the provisions of the Electricity Act, 2003
- Tariff Regulations in so far as DVC is concerned to be consistent with not only the Electricity Act but also the DVC Act.
- Specific decision given by Appellate Tribunal on the continued application of Part IV of the DVC Act
- Second Appeal to Hon'ble Supreme Court – Stay of Appellate Tribunal Order sought – specifically rejected

SPECIFIC POINTS

- Part IV of the DVC Act makes special provisions for:
 - Revenues from Power to be utilized for expenses on various activities of DVC other than Irrigation and flood control;
 - Interest to be paid on capital invested by the three Participating Government in addition to return on investment;
 - Rates of Depreciation to be as per the Central Government Decision to be made in consultation with CAG

SPECIFIC POINTS Cont

- Creation and funding of sinking fund and other reserves;
- Manner of maintenance of accounts and books for DVC operation

EXCLUSIONS FOR DVC

- Tariff Regulations as framed cannot be applied to DVC in view of DVC special status;
- Tariff Regulations to provide for exception to DVC for giving effect to the provisions of DVC Act consistent with the decision of the Appellate Tribunal.
- The Exclusions for DVC can be reconsidered after the final decision of the Hon'ble Supreme Court in pending matters

SUGGESTED AMENDMENT

- Instead of amending each Regulation in the opening part of the Tariff Regulation (Regulation 1) the following be added as a proviso:
 - *“Provided further that these Regulations in so far as Damodar Valley Corporation constituted under the Damodar Valley Corporation Act, 1948 (Act XIV of 1948) is concerned will be applied with such modification as may be required to give effect to the provisions of Part IV, Sections 27 to 47 of the said Damodar Valley Corporation Act, 1948 and as per the decision of the Appellate tribunal for Electricity dated 23.11.2007 in Case No.273 of 2006 and the provisions of these Regulations which are inconsistent with the provisions of the above Part IV of the Damodar Valley Corporation Act, 1948 shall not be given effect to”*

DVC ACTIVITIES INTEGRATED FOR TWO STATES

- DVC operates in two states for distribution of electricity;
- DVC's power system – lines etc are composite in two states;
- The Revenue Requirements of DVC to operate, maintain upgrade etc, the power system are composite and cannot be segregated for each state
- The Revenue Requirements of DVC to discharge activities other than irrigation and flood control are also composite and cannot be segregated for each state

REVENUE REQUIREMENTS OF DVC IN COMPOSITE MANNER

- In the context of peculiar features of DVC activities and to avoid multiple proceedings and conflicting decisions:
 - the entire Revenue Requirements of DVC to be determined by the Central Commission;
 - the Revenue Requirements so determined to be apportioned for recovery from the consumers in two states;
 - the Central Commission besides deciding on the Revenue Requirements may also specify the methodology for apportionment between two states;
 - The two State Commission to deal with Tariff Design for the consumers in the respective states taking the Revenue Requirements and methodology for apportionment decided by the Central Commission as final

OLD GENERATION UNITS – SPECIAL PROVISIONS

- Many generation units are being maintained and operated in public interest much after the estimated plant life of 15/25/35 years.
- Ordinarily such units should have been scrapped and new units should have been installed;
- Operating norms for such old units need to be liberal considering the overall benefits of continued operation of such units as compared to capital cost and fixed charges of new units;

OLD GENERATION UNITS – SPECIAL PROVISIONS - cont

- So long the old units are beneficial to generate electricity at a reasonable per unit charge they should be allowed to operate on liberal norms;
- The norms for O & M expenses, auxiliary consumption, fuel consumption, secondary oil consumption, additional capitalization etc be bench marked to per unit cost of generation and if comparable to new generating unit the same be allowed,

PERIODICITY OF TARIFF DETERMINATION

- The Electricity Act does not mandate periodic determination of tariff for generation and transmission;
- The Electricity Act in fact envisages regulation of power purchase and procurement process;
- The tariff determination by adopting the process of approving the Power Purchase Agreement or the Bulk Power Supply Agreement or Transmission Service Agreements (both for the new units and also existing units for the entire life/ future life of the plant can be considered).
- There can be an one time fixation of tariff norms and such norms should not be subject to variation from time to time.

Contd

- The above will give certainty, confidence to the investor and ensure consistency in the dealings between the generating company and the purchaser
 - *“Provided further that these Regulations shall not apply to the tariff of any generating company or transmission utility where the Central Commission, on an application made jointly by the parties concerned has approved the Power Purchase Agreement or Bulk Supply Agreement and the tariff terms and conditions contained therein”.*
- In all such cases, the Commission can exercise the adjudicatory jurisdiction or the jurisdiction to refer the matter to Arbitrator as provided in Section 79(1)(f) of the Electricity Act to settle any dispute or differences between the parties.

CAPITAL BASE

Regulation 3(2): “actually incurred”

- Dominant consideration for Capitalization and tariff is that capital asset is put to use as per the consistent accounting principles;
- The time of actual cash outflow is not relevant in mercantile system of accounting;
- Committed Liabilities on assets put to use to be allowed though actual cash out flow may be later;
- Similarly actual cash outflow before the assets put to use such as advance given is not relevant for Capitalization;
- The above basic aspect of capitalization and principles of asset being put to use be maintained
- DPR / Revised Cost Estimate should be considered as the basis for admittance of Capital cost & tariff determination

Auxiliary Consumption Regulation 3(5)

- To include the electricity supplied by a generating company to the residential accommodation and other facilities at the generation station;
- Such facilities exist as an essential part of the work connected with the generation of electricity;
- Essential to provide accommodation and facilities with electricity to motivate personnel to work at generation Station which are not in cities.
- Consistent practice followed till date of including the above as auxiliary consumption may not be varied

Contracted Power Regulation 3 (11)

- Contracted Power is essentially a matter of contract between Generator and Purchaser;
- The arrangement of transmission capacity for evacuation can either be the responsibility of the Generator or Purchaser in terms of the contract between them;
- The Transmission of power need to be arranged by the concerned party as per the contract;
- The definition of contracted power should be consistent with the above
- The definition to be as under
 - *“the power in MW as per the Agreement between the importing and exporting utility”*