CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Coram:

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**

Review Petition No.54/2003
In
Petition No.40/2002

In the matter of

Review of order dated 30.6.2003 in Petition No.40/2002 for fixing transmission tariff for 400 kV D/C Kaiga-Sirsi transmission line for the period 2001-2004 - Award of FERV when no repayment is made during the tariff period and apportioning the increase due to FERV between loan and equity instead of to loan only.

And in the matter of

Review Petition No.55/2003
In
Petition No.7/2002

Review of order dated 30.6.2003 in Petition No.7/2002 for fixing transmission tariff for the Central Transmission Project A.C. line System in Southern Region for the period 2001-2004 - Award of FERV on notional/accrual basis at the beginning of the tariff period when repayment is made during the tariff period and apportioning the increase due to FERV between loan and equity instead of to loan only.

And in the matter of

Review Petition No.62/2003
In
Petition No.51/2002

Review of order dated 18.7.2003 in Petition No.51/2002 for fixing transmission tariff for 400 kV D/C Jeypore-Gazuwaka Transmission Line and HVDC back to back station at Gazuwaka for the period 2001-2004 - Award of FERV upfront when repayment is made during the tariff period and apportioning the increase due to FERV between loan and equity instead of to loan only.

And in the matter of

Review Petition No.63/2003
In
Petition No.9/2002

Review of order dated 30.6.2003 in Petition No.9/2002 for fixing transmission tariff for 400 kV Ramgundam-Chandrapur D/C line system between Southern Region and Western Region for the period 2001-2004 - Award of FERV on notional basis at the beginning of the tariff period when repayment is made during the tariff period and apportioning the increase due to FERV between loan and equity instead of to loan only.

Tamil Nadu Electricity Board **….Petitioner**

Vs

1. Power Grid Corporation of India Ltd., New Delhi
2. Transmission Corporation of Andhra Pradesh Ltd., Hyderabad
3. Karnataka Power Transmission Corporation Ltd., Bangalore
4. Kerala State Electricity Board, Trivandrum
5. Electricity Department, Govt. of Pondicherry, Pondicherry **…Respondents**

The following were present:

1. Shri S. Sowmyanarayanan, TNEB
2. Shri S.S. Sharma, AGM, PGCIL
3. Shri C. Kannan, Chief Manager, PGCIL
4. Shri U.K. Tyagi, DGM, PGCIL
5. Shri S Mehrotra, PGCIL
6. Shri M. Rastogi, PGCIL
7. Shri Vijayanarasmin, KPTCL

ORDER
(DATE OF HEARING : 18.11.2003)

These petitions seek review of the Commission's orders on transmission tariff on the question of computation of foreign exchange rate variation (FERV) for the purpose of tariff and its allocation between debt and equity. Since review in all these cases has been sought on identical grounds, matter is being examined in detail in relation to facts of Review Petition No.54/2003.

Review Petition No.54/2003

2. Petition No.40/2002 was filed by Respondent No.1, that is, Power Grid Corporation of India Limited for approval of tariff for 400 kV D/C Kaiga-Sirsi Transmission Line in Southern Region (hereinafter referred to as the transmission system) for the period from 1.4.2001 to 31.3.2004, based on the terms and conditions contained in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001, notified on 26.3.2001, (hereinafter referred to as the tariff regulations). The tariff was approved by the Commission vide its order dated 30.6.2003, which is sought to be reviewed by the present review petition, that is, No.54/2003.

3. In accordance with Clause 1.13 (a) of the tariff regulations, extra rupee liability towards interest payment and loan repayment directly arising out of FERV is to be calculated by following the method as per the Accounting Standard 11 (AS-11) issued by Institute of Chartered Accountants. The relevant extract of the notification is placed below:

> "Extra rupee liability towards interest payment and loan repayment actually incurred, in the relevant year shall be admissible; provided it directly arises out of foreign exchange rate variation and is not attributable to Utility or its suppliers or contractors. Every utility shall follow the method as per the Accounting Standard-11 (Eleven) as issued by the Institute of Chartered Accountants of India to calculate the impact of exchange rate variation on loan repayment."

4. The Commission in its order of 30.6.2003 had directed that FERV to be capitalised would be arrived at in the following manner:

Foreign Loan outstanding as on 31.03.2001 x (Exchange Rate as on 31.03.2001 - Exchange Rate as on date of commercial operation as given in the petition).

5. FERV amount, calculated in the above manner was arrived at Rs.14.18 lakh, which was added to the capital cost of the transmission system and considered for the purpose of tariff fixation. The additional capital cost, on account of FERV was divided between debt and equity in the ratio of 56:44, that is, the ratio in which the capital cost of the transmission system was originally financed. Accordingly, the debt and equity considered for determination of tariff are given hereunder:

(Rs. in lakh)

	Original	Addition on account of FERV	Total
Loan	3176.00	7.95	3183.95
Equity	2492.66	6.24	2498.90
Total	5668.66	14.18	5682.85

6. The present petitioner is aggrieved on account of the treatment given to FERV in the order dated 30.6.2003 and has filed the present application for review of order. It has been contended by the petitioner that repayment of loan is to commence on 10.6.2004, which is after the expiry of tariff period and, therefore, the impact of FERV could not be capitalised as on 1.4.2001 by considering the exchange rate applicable as on 31.3.2001. It has been submitted that FERV amount could be considered to the extent of repayment made against the loan. It is further contended that the Commission has erred by apportioning the amount of FERV capitalised into equity

and loan in the ratio of 56:44. According to the petitioner, the entire amount on account of FERV should have been considered as a loan without, apportioning any part of it to equity. Accordingly, the petitioner has made the following prayers in the application for review:

> "1. The additional capitalisation due to FERV awarded by CERC in the impugned order dated 30.06.2003 on Petition No.40/2002 is not in line with CERC notification dated 26.03.2001 nor with the AS-11 of ICAI. Hence, the additional capitalisation awarded in the petition may be withdrawn and allowed only when a repayment is made against the foreign currency loan.
>
> 2. Splitting the FERV, wrongly arrived at as outlined above, as loan and equity in the same debt-equity ratio of the project is not a generally accepted amounting practice and journal entry treating it as equity or internal resources for the above case is not at all possible. It is common practice to operate the foreign currency loan account in the Powergrid books for FERV arising out of repayment of loan and not apportioning the same between loan and equity in the D/E ratio of funding the project.
>
> 3. In view of the above it is prayed that the impugned order may be revised disallowing the additional capitalisation due to FERV when no repayment is involved. The FERV on account of loan repayment as and when arises should only be added to the loan and should not be apportioned between loan and equity as was done in the impugned order.
>
> 4. It is prayed that the orders issued in respect of earlier/other petitions also may be revised allowing capitalisation of FERV based on the actual repayment of loan and to add the same to loan instead of apportioning between loan and equity in the same debt-equity ratio as adopted on DOCO even if the debt-equity ratio adopted for tariff is on notional basis, as the foreign loans to the project are identified by Powergrid in their petition.
>
> 5. Pass any other order as the Commission deem fit in the interest of justice.

7. We have considered the submissions made by the petitioner in the petition, and have heard Shri S Sowmyanarayanan in support of the petition. It is true that there is a moratorium on repayment of loan up to 10.6.2004. The Commission while deciding on tariff vide order dated 30.6.2003 has not considered the impact of FERV on loan repayment because the repayment of loan was not involved. Respondent No.1 had the liability to pay interest on foreign currency loan (USD in the present case), even

during the period of moratorium. Therefore, the impact of FERV on the interest component has been permitted to be capitalised. Accordingly, capitalisation allowed in tariff calculations on account of FERV does not involve any error.

8. This takes us to the other issue raised by the petitioner. The provisions of the tariff regulations are based on the Commission's order dated 21.12.2000 in Petition No.4/2000 and other related petitions. On the question of methodology for computation of FERV, the Commission had decided as under:

> "Regarding the methodology for escalation, in case of debt, we find two different practices in NHPC and NTPC. In the former case, the entire burden of rate variation falls at the time of repayment of the loan; whereas in the latter case a revaluation on each balance sheet date is done thereby correspondingly increasing the value of the fixed asset so that consequent return, interest and depreciation are charged to tariff. Charging the return variation at the time of repayment is more harmful particularly, if there are bullet repayments or there is a progressive devaluation of the Rupee. Such a practice gives a big tariff jolt. Hence the practice adopted by NTPC which is also in accordance with the Accounting Standards of the Institute of Chartered Accountants of India (AS-11) is advisable and should be adopted. The present practice is to charge depreciation on the additional capitalisation and also charge interest and ROE on the normative basis of debt/equity mix of 50:50. The variation to be charged for the 1st year is 50% of the number as it is reckoned at the end of the year. This treatment avoids tariff shocks and is commendable. <u>The ultimate impact on tariff should be to the extent of return on equity, interest on loan and depreciation as if the increase in asset is an additional investment.</u> In order to ensure uniformity all utilities shall follow this practice in future. We are conscious that change over to this method in case of NHPC may create a liquidity problem as suitable source of finance has to be found for the actual repayment. However, since 50% of the escalation is treated as equity, there is a leverage provided to the utility which should incentivise NHPC to change over to the new system. We understand that NHPC was adopting the system of annual revision but switched over to the system of charging at the time of repayment since 1997-98. As already stated this system is not advisable as it gives a tariff jolt to the beneficiaries and is also not in accordance with the accounting standard." (Emphasis added)

9. It would be observed that the Commission had anticipated the impact of the methodology decided, on return on equity, interest on loan and depreciation. It, therefore, naturally follows that in accordance with the methodology approved by the

Commission, the additional capitalisation on account of FERV is to be divided between debt and equity in the same ratio as the original cost of the transmission system.

10. The petitioner had earlier filed a review petition No.47/2003 in Petition No.41/2000 against the Commission's order dated 25.6.2003 on similar grounds. The said review petition was dismissed by the Commission vide its order dated 25.9.2003 in the following terms:

> "9. A plain reading of the provisions of AS 11 would suggest that FERV is to be capitalised at the end of the year. In view of this provision, the Commission has taken a conscious view that FERV is to be capitalised on 31.3.2001 for adding in the gross block as on 1.4.2001 in the following manner.
>
> Foreign loan outstanding as on 31.3.2001 x (Exchange Rate as on 31.3.2001 – Exchange Rate as on date of commercial operation /1.4.1992 as given in the petition whichever is later).
>
> 10. There is thus no error in the method of capitalisation of FERV on the date of commencement of tariff period, that is, 1.4.2001 since it accords with clause 1.13 of the notification dated 26.3.2001. The method has been followed uniformly in all the cases for approval of tariff by the Commission.
>
> 11. Similarly, we do not find any merit in the grievance made out by the petitioner in regard to allocation of the amount of FERV to debt and equity. Once FERV has been capitalised, the natural consequence is its distribution between debt and equity for the purpose of tariff, otherwise its capitalisation does not serve any purpose, whatsoever. Accordingly, the Commission has decided that FERV amount be added in the loan and equity as on 1.4.2001 in the debt-equity ratio in which the tariff for the period ending 31.3.2001 was allowed.
>
> 12. In the light of foregoing discussion, there is no error whatsoever much less an error apparent on the face of record, necessitating review of the order dated 25.6.2003. Accordingly, we hold that the review petition is without any merit and hence direct its dismissal at the admission stage itself, without any order as to costs.

11. For the above reasons, we do not find any merit in the present application for review and is dismissed.

Review Petitions No.55/2003 and 62/2003

12. The issues raised in these petitions are similar to those raised in the application for review (No.54/2003). For the reasons already recorded while considering the said application for review, these review petitions are also dismissed.

Review Petition No.63/2003

13. This application for review arises out of the Commission's order dated 30.6.2003 in petition No.9/2002, which concerned approval of transmission tariff for the period 1.4.2001 to 31.3.2004 in respect of 400 kV Ramagundam-Chandrapur D/C transmission line between Southern and Western regions. In addition to the ground of additional capitalisation of FERV taken in review petition No.54/2003, the petitioner has raised two other issues in this review petition. On the question of additional capitalisation of FERV, our decision in earlier part of this order on Petition No.54/2003 shall govern this case as well.

14. In this application for review, it is further stated that O&M charges of Rs.245.52 lakh awarded by the Commission for the year 2001-2002 are higher by more than 81%, over those earlier awarded by Central Government for the year 2000-2001. According to the petitioner the increase is abnormal, which required reconsideration. O&M charges have been allowed in accordance with the methodology contained in Clause 4.4(d) of the tariff regulations. There is no whisper in the application for review that the methodology prescribed in the tariff regulations has been departed from while

approving O&M charges in Petition No.9/2002 or that the methodology has been incorrectly applied. It bears notice that the same methodology has been adopted to calculate O&M charges for other transmission lines in Southern Region, where the petitioner has not made any grievance. Therefore, there is no scope for review of O&M expenses authorised by the Commission in the order dated 30.6.2003 in petition No.9/2002. We may also mention that increase in O&M charges for 2001-2002 over those for 2000-2001 are about 55% higher and not 81% as submitted by the petitioner.

15. The petitioner has further pointed out that for the year 2002-2003 there is an error in totaling of the six components of fixed charges arrived at by the Commission. The Commission had allowed a sum of Rs.760.80 lakh during the year 2002-2003. According to the petitioner, the components of tariff approved by the Commission add up to Rs.760.28 lakh and thus there was a totaling error of Rs.52,000/-. We agree with the petitioner that there is an arithmetical error in the sum total of transmission charges for the year 2002-2003 given in the table in the order dated 30.6.2003 in petition No.9/2002. Therefore, we direct that Respondent No.1 shall be entitled to a sum of Rs.760.28 lakh as the transmission charges for the year 2002-2003 instead of Rs.760.80 lakh ordered in the order dated 30.6.2003. To this extent the order dated 30.6.2003 in Petition No.9/2002 stands modified, as a correction of arithmetical error. The revised transmission charges approved for the period from 1.4.2001 to 31.3.2004 are summed up as under:

TABLE

(Rs. in lakh)

Transmission Tariff	2001-02	2002-03	2003-04
Interest on Loan	11.08	2.73	0.00
Interest on Working Capital	23.79	24.49	23.92
Depreciation	139.92	139.92	88.92
Advance against Depreciation	22.00	22.00	0.00
Return on Equity	310.89	310.89	310.89
O & M Expenses	245.52	260.25	275.86
Total	**753.20**	**760.28**	**699.59**

16. With the above observations Review Petition No.54/2003 in Petition No.40/2002, Review Petition No.55/2003 in Petition No.7/2002, Review Petition No.62/2003 in Petition No.51/2002 and Review Petition No.63/2003 in Petition No.9/2002 stand disposed of.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 4th December, 2003