

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 287/2010

**Coram: Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member**

Date of Hearing: 16..12. 2010

Date of Order: 9.2.2011

In the matter of:

Approval under Regulation 86 of Central Electrical Regulatory Commission (Conduct of Business) Regulations, 1999 for determination of Transmission Tariff for SPECIAL ENERGY METERS in Southern Region from the period from 1.4.2009 to 31.3.2014

In the matter of:

Power Grid Corporation of India Ltd., Gurgaon

.....**Petitioner**

Vs

1. Kerala State Electricity Board, Thiruvananthapuram
2. Tamil Nadu Electricity Board, Chennai
3. Electricity Department, Govt. of Pondicherry, Pondicherry
4. Electricity Department, Govt. of Goa, Panaji
5. Transmission Corporation of Andhra Pradesh Ltd. Hyderabad
6. Northern Power Distribution Company of Andhra Pradesh Ltd., Warrangal
7. Eastern Power Distribution Company of Andhra Pradesh Ltd., Visakhapatnam
8. Southern Power Distribution Company of Andhra Pradesh Ltd., Tirupati
9. Central Power Distribution Company of Andhra Pradesh Ltd., Hyderabad
10. Karnataka Power Transmission Corporation, Ltd. Bangalore
11. Bangalore Electricity Supply Company Ltd., Bangalore
12. Gulbarga Electricity Supply Company Ltd., Gulbarga
13. Hubli Electricity Supply Company Ltd., Hubli
14. Mangalore Electricity Supply Company Ltd., Mangalore
15. Chamundeswari Electricity Supply Company Ltd., Mysore

...
Respondents

The following was present:

1. Shri.M M Mondal, PGCIL
2. Shri Rajeev Gupta, PGCIL
3. Shri Rakesh Prasad, PGCIL

ORDER

This petition has been filed seeking approval of transmission tariff in respect of Special Energy Meters in Southern Region (hereinafter called “the SEMs”) for tariff block 2009-14 period based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009, (hereinafter referred to as “the 2009 regulations”). The petitioner has also sought the following reliefs:

- (a) Allow grossing up of base rate of return with the applicable tax rate as per the Finance Act of the relevant year and direct settlement of tax liability between the transmission licensee and the long term transmission customers.
- (b) Allow the petitioner to bill and recover Service Tax on Transmission charges separately from the respondents, if petitioner is subjected to such service tax.
- (c) Approve the reimbursement, of expenditure, by the beneficiaries towards petition filing fee, and publishing of notices in newspapers in terms of Regulation 42 of the 2009 regulations, and other expenditure (if any) in relation to the filing of petition.
- (d) Allow the petitioner reimbursement of actual expenditure on testing of SEMs.

(e) Allow the petitioner to bill and recover licence fee separately from the respondents

(f) Pass such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice.

2. The petitioner had installed the SEMs in the Southern Region as agreed to in the 110th SREB meeting held on 23.2.1994. The SEMs have been under commercial operation since 1.4.1998. Total cost of installation was ₹ 263 lakh which has been funded entirely through internal resources by the petitioner. Transmission tariff for the period 2004-09 was approved by the Commission vide its order dated 31.10.2005 in Petition No. 132/2004

3. The petitioner has claimed the following transmission charges:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	14.09	0.00	0.00	0.00	0.00
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on equity	45.98	45.98	45.98	45.98	45.98
Interest on Working Capital	1.25	0.96	0.96	0.96	0.96
O & M Expenses	0.00	0.00	0.00	0.00	0.00
Total	61.32	46.94	46.94	46.94	46.94

4. The details submitted by the petitioner in support of its claim for interest on working capital are given hereunder:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O & M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	10.22	7.82	7.82	7.82	7.82
Total	10.22	7.82	7.82	7.82	7.82
Interest	1.25	0.96	0.96	0.96	0.96
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%

5. None of the respondents have filed reply to the petition.
6. Having heard the representatives of the petitioner who alone were present and having examined the material on record, we proceed to dispose of the petition.

CAPITAL COST

7. Proviso to clause (2) of Regulation 7 of the 2009 regulations, provides as under:

“Provided also that in case of the existing projects, the capital cost admitted by the Commission prior to 1.4.2009 and the additional capital expenditure projected to be incurred for the respective year of the tariff period 2009-14, as may be admitted by the Commission, shall form the basis for determination of tariff.”

8. As per the Commission’s order dated 31.10.2005 in Petition No: 132/2004, the admitted capital expenditure was ₹. 263.03 lakh and there is no projected additional capital expenditure thereafter. Accordingly, capital expenditure of ₹. 263.03 lakh as on 1.4.2009 has been considered for tariff determination for 2009-14 period.

ADDITIONAL CAPITAL EXPENDITURE

9. The petitioner has not projected any additional capital expenditure during the period 2009-14.

DEBT- EQUITY RATIO

10. Clause (2) of Regulation 12 of the 2009 regulations *inter alia* provides that,-

“(2) In case of the generating station and the transmission system declared under commercial operation prior to 1.4.2009, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2009 shall be considered.”

11. As stated above, the entire capital for the SEMs was met through internal resources by the petitioner. Accordingly, debt-equity ratio of 0:100 was allowed by the Commission for determination of tariff for the period ending 31.3.2009. In terms of the above extracted provision, the same debt-equity ratio of 0:100 is being adopted in this order for determination of tariff for the period 2009-14.

RETURN ON EQUITY

12. Regulation 15 of the 2009 regulations provides that,-

“15. (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 12.

(2) Return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per clause (3) of this regulation:

*Provided that in case of projects commissioned on or after 1st April, 2009, an additional return of 0.5% shall be allowed if such projects are completed within the timeline specified in **Appendix-II**:*

Provided further that the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever.

(3) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate for the year 2008-09 applicable to the concerned generating company or the transmission licensee, as the case may be:

Provided that return on equity with respect to the actual tax rate applicable to the generating company or the transmission licensee, as the case may be, in line with the provisions of the relevant Finance Acts of the respective year during the tariff period shall be trued up separately for each year of the tariff period along with the tariff petition filed for the next tariff period.

(4) Rate of return on equity shall be rounded off to three decimal points and becomputed as per the formula given below:

Rate of pre-tax return on equity = Base rate / (1-t)

Where t is the applicable tax rate in accordance with clause (3) of this regulation.”

13. The petitioner has computed ROE on pre- tax basis on 11.33% MAT in accordance with the tax rate applicable for 2008-09 and has claimed return on equity @ 17.481%.

14. Petitioner's prayer to invoke the provisions of Regulation 44 of the 2009 regulations for relaxation of Regulation 15(3) thereof so that grossing up the base rate of ROE may be allowed considering the tax rates viz., MAT, surcharge, any other cess, charges, levies etc., as per the relevant Finance Acts, has already been taken cognizance of in the Commission's order dated 3.8.2010 in Petition No. 17/2010 wherein a decision has been taken to address the issue raised by the petitioner. Relevant portion of the said order is extracted as under:

“We are of the view that this issue of ‘grossing up the base rate with the normal tax rate for the year 2008-09’ is generic in nature and therefore, it will be appropriate to make suitable provisions in the 2009 regulations to cater to any future changes in the tax rate. Accordingly, we direct the staff of the Commission to prepare and submit draft amendment to the 2009 regulations for allowing grossing up of base rate of return with the applicable tax rate as per the Finance Act for the relevant year and direct settlement of tax liability between the generating company/transmission licensee and the beneficiaries/long term transmission customers on year to year basis. Any under/over recovery on account of direct settlement of tax liability shall be subject to the final adjustment at the time of true up exercise.”

15. Pending decision on revision of MAT rate, ROE has been computed as per Regulation 15 of the 2009 regulations, and pre-tax ROE of 17.481% has been considered.

16. Detailed calculation of the ROE in respect the transmission assets is as under:

		(₹ in lakh)				
		2009-10	2010-11	2011-12	2012-13	2013-14
Gross Notional Equity	263.03					
Addition due to Additional Capitalisation	0.00					
Opening Equity	263.03	263.03	263.03	263.03	263.03	263.03
Addition due to Additional Capitalisation		0.00	0.00	0.00	0.00	0.00
Closing Equity		263.03	263.03	263.03	263.03	263.03
Average Equity		263.03	263.03	263.03	263.03	263.03
Return on Equity (Base Rate)		15.50%	15.50%	15.50%	15.50%	15.50%
Tax rate for the year 2008-09		11.330%	11.330%	11.330%	11.330%	11.330%
Rate of Return on Equity (Pre Tax)		17.481%	17.481%	17.481%	17.481%	17.481%
Return on Equity (Pre Tax)		45.98	45.98	45.98	45.98	45.98

INTEREST ON LOAN

17. As the entire capital has been funded through equity, there is no loan in the case of SEMs. Consequently, there is no interest on loan as well

DEPRECIATION

18. Regulation 17 of the 2009 regulations provides for computation of depreciation in the following manner, namely:

“17. (1) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission.

(2) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset.

xxxx

xxxx

(3) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(4) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-III to these regulations for the assets of the generating station and transmission system:

Provided that, the remaining depreciable value as on 31st March of the year closing after a period of 12 years from date of commercial operation shall be spread over the balance useful life of the assets.

(5) In case of the existing projects, the balance depreciable value as on 1.4.2009 shall be worked out by deducting the cumulative depreciation as admitted by the Commission up to 31.3.2009 from the gross depreciable value of the assets.

(6) Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.”

19. Depreciation has been worked out on the admitted capital expenditure as on 1.4.2009 and projected additional capitalization thereafter.

20. As the remaining depreciable value comes out less than the depreciation as per straight line method and, minimum of these is being taken as depreciation. The Elapsed life of the Asset works out to 10 years as per our methodology, where the petitioner has considered as 11 years. However there is no impact on tariff.

21. For the period 1.4.2009 to 31.3.2014 the depreciation worked out are as under:

(₹ in lakh)						
		2009-10	2010-11	2011-12	2012-13	2013-14
Rate of Depreciation		6.3300%	6.3300%	6.3300%	6.3300%	6.3300%
Depreciable Value	90%	236.73	236.73	236.73	236.73	236.73
Elapsed Life (Beginning of the year)		10	11	12	13	14
Weighted Balance Useful life	25	15	14	13	12	11
Remaining Depreciable Value		14.09	0.00	0.00	0.00	0.00
Depreciation		14.09	0.00	0.00	0.00	0.00

OPERATION & MAINTENANCE EXPENSES

22. While determining tariff for the period 2004-09, the Commission had taken a conscious decision that the petitioner is not entitled for O&M expenditure incurred in respect of SEMs. In this connection, para 20 of the Commission's order dated 30.10.2005 is extracted hereunder for ease of reference:

OPERATION & MAINTENANCE EXPENSES

20. The petitioner has claimed O & M expenses @ 1.5% of the capital cost as on the date of commercial operation, with escalation @ 4% per annum thereafter. The petitioner had earlier made an application for approval of tariff for the period 1.4.2001 to 31.3.2004 and had not claimed O & M charges. The petitioner subsequently explained the reasons for not claiming these charges on the ground that normative O & M expenses for the transmission system in Southern Region for the period 1.4.20001 to 31.3.2004 included actual O & M expenses on Special Energy Meters in the region. It is noticed that the normative O & M expenses for the transmission system applicable for the period 1.4.2004 to 31.3.2009 have been arrived at based on actual total O&M expenses booked during the period 1998-99 to 2002-03, which included O&M expenditure incurred on Special Energy Meters in Southern Region. In view of this, the petitioner is not entitled to claim O&M expenses. This was accepted by the representative of the petitioner at the hearing. It was, however, submitted that lab testing of Special Energy Meters is a mandatory requirement to be undertaken every five years. It was submitted that the lab testing of Special Energy Meters installed in Southern Region during 1998 has become due. Under these circumstances, the representative of the petitioner pleaded for recovery of lab testing charges. The petitioner is given liberty to approach the Commission for reimbursement of actual expenditure as and when incurred on testing of Special Energy Meters.

23. On the same analogy, O&M expenses are not being awarded in this tariff. As decided in the above extracted order, the petitioner is at liberty to approach the Commission for reimbursement of actual expenditure as and when incurred on testing of SEMs and the same will be examined in accordance with law.

INTEREST ON WORKING CAPITAL

24. As per the 2009 regulations the components of the working capital and the interest thereon are discussed hereunder:

(i) Receivables

As per Regulation 18(1)(c)(i) of the 2009 regulations, receivables will be equivalent to two months' average billing calculated on target availability level. The petitioner has claimed the receivables on the basis of 2 months' transmission charges claimed in the petition. In the tariff being allowed, receivables have been worked out on the basis of 2 months' transmission charges.

(ii) Maintenance spares

Regulation 18(1)(c)(ii) of the 2009 regulations provides for maintenance spares @ 15% per annum of the O & M expenses from 1.4.2009. The value of maintenance spares has accordingly been worked out to 'nil' because the O&M expenditure has not been awarded in the instant case.

(iii) O & M expenses

Regulation 18(1) (c) (iii) of the 2009 regulations provides for operation and maintenance expenses for one month as a component of working capital. As O&M has not been allowed, this component of working capital is 'nil'

(iv) Rate of interest on working capital

As per Regulation 18(3) of the 2009 regulations, rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1.4.2009 or on 1st April of the year in which the project or part thereof (as the case may be) is declared under commercial operation, whichever is later. The interest on working capital is payable on normative basis notwithstanding that the transmission licensee has not taken working capital loan from any outside agency. The petitioner has claimed interest on working capital @ 12.25% based on SBI PLR as on 1.4.2009, which is in accordance with the 2009 regulations and has been allowed.

25. Necessary computations in support of interest on working capital are appended hereinbelow:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O & M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	10.22	7.82	7.82	7.82	7.82
Total	10.22	7.82	7.82	7.82	7.82
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	91.43	91.51	90.65	89.80	89.03

TRANSMISSION CHARGES

26. The transmission charges being allowed for the transmission lines are summarized below:

(₹ in lakh)

	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	14.09	0.00	0.00	0.00	0.00
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on equity	45.98	45.98	45.98	45.98	45.98
Interest on Working Capital	1.25	0.96	0.96	0.96	0.96
O & M Expenses	0.00	0.00	0.00	0.00	0.00
Total	61.32	46.94	46.94	46.94	46.94

Application fee and the publication expenses

27. The petitioner has sought approval for the reimbursement of fee paid by it for filing the petition. In accordance with our decision in order dated 11.1.2010 in Petition No. 109/2009, the petitioner shall be entitled to recover the filing fee from the beneficiaries.

28. Accordingly, expenses incurred by the petitioner on application filing fees and publication of notices in connection with the present petition shall be directly recovered from the beneficiaries on pro rata basis.

Service Tax

29. The petitioner has made a specific prayer to be allowed to bill and recover the Service tax on Transmission charges separately from the respondents if the exemption granted is withdrawn and the transmission power service is notified as a taxable service. Should such a contingency arise, the petitioner is at liberty to file a petition in accordance with law. .

30. The transmission charges allowed in this order shall be recovered on monthly basis in accordance with Regulation 23 and shall be shared by the respondents in accordance with Regulation 33 of the 2009 regulations.

31. This order disposes of Petition No. 287/2010.

**Sd/-
(M.Deena Dayalan)
Member**

**Sd/-
(V.S.Verma)
Member**

**Sd/-
(S.Jayaraman)
Member**