

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 254/2010

Coram:

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

DATE OF HEARING: 20.1.2011

DATE OF ORDER 2.5.2011

In the matter of

Approval of transmission tariff for 400 kV Kahalgaon Transmission System in Eastern Region for the period from 1.4.2009 to 31.3.2014.

And in the matter of

Power Grid Corporation of India Ltd., Gurgaon **Petitioner**
Vs

1. Bihar State Electricity Board, Patna
2. West Bengal State Electricity Distribution Company Limited, Calcutta
3. Grid Corporation of Orissa Ltd., Bhubaneswar
4. Damodar Valley Corporation, Calcutta
5. Power Department, Govt.of Sikkim, Gangtok
6. Jharkhand State Electricity Board, Ranchi**Respondents**

The following were present:

1. Shri Rajeev Gupta, PGCIL
2. Shri M.M. Mondal, PGCIL
3. Shri R. Prasad, PGCIL
4. Shri R.B.Sharma, Advocate, BSEB

ORDER

The petition has been filed seeking approval of transmission tariff for 400 kV Kahalgaon Transmission System (hereinafter referred to as "the transmission system") in Eastern Region for the period from 1.4.2009 to 31.3.2014, in accordance with Central Electricity Regulatory Commission

(Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 regulations") after accounting for additional capital expenditure of ₹ 362.53 lakh incurred during 2011-12. The petitioner has made the following additional prayers too :-

- (i) Allow 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 transmission licensee and the beneficiaries/ long term transmission customers on year to year basis;
- (ii) To approve reimbursement of petition filing fee and publication of notices in the newspaper as per the 2009 regulations;
- (iii) Allow to bill and adjust impact on Interest on Loan due to change in Interest rate on account of floating rate of interest applicable during 2009-14 period, if any, from the respondents; and
- (iv) Allow to bill and recover licensee fee separately from the respondents.

2. The revised cost estimates for the transmission system were approved by the Central Government in Ministry of Power under letters dated 1.6.1992 and 7.9.1992 at a total cost of ₹ 22375.00 lakh.

3. The dates of commercial operation of the elements of the transmission system are from 1.3.1993 to 1.10.1994. The annual transmission charges up to 31.3.2009 in respect of the transmission system were approved vide order dated 14.12.2005 in Petition No. 127/2004 which were subsequently revised vide order dated 7.2.2008.

4. The petitioner has claimed the transmission charges during 2009-14 as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	342.35	342.35	353.23	364.88	364.88
Interest on Loan	0.00	0.00	10.49	20.01	18.07
Return on Equity	1699.77	1699.77	1709.28	1718.78	1718.78
Interest on Working Capital	95.19	98.20	102.03	106.03	109.54
O & M Expenses	1052.07	1112.25	1175.98	1243.23	1314.15
Total	3189.38	3252.57	3351.01	3452.93	3525.42

5. 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	157.81	166.84	176.40	186.48	197.12
O & M expenses	87.67	92.69	98.00	103.60	109.51
Receivables	531.56	542.10	558.50	575.49	587.57
Total	777.04	801.63	832.90	865.57	894.20
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	95.19	98.20	102.03	106.03	109.54

6. No comments or suggestions have been received from the general public in response to the notices published by the petitioner under section 64 of the Electricity Act, 2003. Reply to the petition has been filed by Bihar State electricity Board (BSEB). BSEB has raised the issue of petitioner's claim on additional capital expenditure, Return on

equity, State Bank of India Advance Rate, Reimbursement of filing fee, publication expenses and licence fee. The issues have been addressed in relevant paras of this order.

CAPITAL COST

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

“Provided that in case of the existing projects, 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. The capital cost of ₹19666.55 lakh admitted vide order dated 7.2.2008 in Petition No. 127/2004 has been considered for the purpose of tariff.

9. The petitioner has claimed the tariff after accounting for projected additional capital expenditure as under:

(₹ in lakh)

Admitted capital cost as on 31.3.2009	Capital expenditure projected to be incurred during 2011-12	Total estimated capital expenditure
19666.55	362.53	20029.08

ADDITIONAL CAPITAL EXPENDITURE

10. Regulation 9 of the 2009 regulations provides as under:

“(1) The capital expenditure incurred or projected to be incurred, on the following counts with in original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

(i) Undischarged liabilities;

- (ii) Works deferred for execution;
- (iii) Procurement of initial capital spares within the original scope of work, subject to the provisions of regulating 8 ;
- (iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and
- (v) Change in law;

Provided that the details of works included in the original scope of work along with estimates of expenditure, undischarged liabilities and the works deferred for execution shall be submitted along with the application for determination of the tariff.

(2) The capital expenditure incurred on the following counts after the cut-off-date, in its discretion, be admitted by the Commission, subject to prudence check:

- (i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court;
- (ii) Change in law;
- (iii) *****
- (iv) *****
- (v) In case of transmission system any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement of switchyard equipment due to increase of fault level, emergency restoration system, insulators cleaning infrastructure, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of the transmission system."

11. The details submitted by the petitioner in support of its claim for projected additional capital expenditure for the transmission system is given as under:

Years	Nature and details of expenditure	Amount (₹ in lakh)
2011-12	Transmission line – Tower strengthening	362.53
	Total	362.53

12. Respondent No. 1, BSEB in its reply has objected to the claim of additional capital expenditure proposed to be incurred during 2011-12 towards tower strengthening on the ground that such an expenditure is not covered under Regulation 9 (2) of the 2009 regulations and Regulation 10 of the 2009 regulations is appropriate regulation to claim such expenses. BSEB has further submitted that the proposal of additional capital expenditure would be acceptable, if the life of the transmission line is increased and the entire expenses are met from debt. The petitioner in its rejoinder has submitted that the projected additional capital expenditure may be dealt with in accordance with the Regulation 9 (2) (v) of the 2009 regulations. The petitioner has further submitted that expenditure has become necessary for successful and efficient operation of the transmission system to avoid incidents of tower collapse as per the recommendation of committee comprising experts from Central Electricity Authority and Power Grid.

13. The petitioner vide affidavit dated 25.10.2010 has submitted as under :

(a) The tower strengthening has been proposed in the 400 kV D/C Kahalgaon- Maithon- I & II and 400 kV S/C Jamshedpur-Rourkela transmission line under the Kahalgaon transmission system. These transmission lines were designed as per IS: 802-1977 in medium wind zone. There were 54 incidents (163 towers) of tower failure reported till 15.9.2010 in 400 kV towers in the

transmission line having towers with this design. As per revised design practice of IS: 802- 1995 these transmission lines fall in wind zone 4;

(b) After failure of towers in 2009 the petitioner approached Structural Engineering Research Centre (SERC), Chennai to suggest strengthening of towers of 400 kV Dadri- Ballabgarh (designed for medium wind zone as per IS: 802- 1977 and now falling in wind zone 4 as per IS: 802- 1995) as a sample case. SERC suggested for tower strengthening;

(c) There were of 6 no. of tower failure in 2003 in 400 kV D/C Kahalgaon- Maithon I and II transmission line and 3 nos. of towers collapsed in 2000 in 400 kV S/C Jamshedpur-Rourkela transmission line;

(d) The supply and installation works are proposed to be undertaken through competitive bidding process and Power Grid will approach the Commission with actual cost depending on market conditions prevailing at the time of procurement; and

(e) 400 kV transmission lines transfer bulk amount of power for long distances and outage of these lines due to power collapse would be of long duration and may affect the grid stability. The tower strengthening of transmission line for which additional

capital expenditure is being claimed, is to improve the stability/reliability of vulnerable lines resulting in enhancing the stability of grid.

14. In view of the above, it is observed that though there was no specific recommendation from SERC/ Central Electricity Authority for these transmission lines, SERC had recommended for tower strengthening in a transmission line with similar design. The Committee constituted by Central Electricity Authority (CEA) recommended providing hip bracing up to bottom cross arm level in all suspension towers of some of the transmission lines having design similar to the subject lines and in which tower failures were observed. Therefore, keeping in view the incidents of tower failures in the past and recommendations of SERC and CEA, it is observed that the tower strengthening work is justified.

15. We have considered the rival submissions made by the parties. It is noted that expenditure projected to be incurred during 2011-12 is beyond the cut-off date for which there is no provision in Regulation 9 (2) of the 2009 regulations. In regard to Regulation 10 pertaining to renovation and modernisation, it is observed that this regulation is related to works for the purpose of extension of life beyond the useful life of the transmission system. Since the strengthening of towers is only for a portion of the transmission line, the work is envisaged for successful

operation and not for extension of life beyond useful life of the transmission asset. The Commission has earlier decided in order dated 8.2.2011 in Petition No. 176/2010 to relax Regulation 9 (2) of the 2009 regulations to admit the expenditure incurred after the cut-off date. Accordingly, the expenditure projected to be incurred during 2011-12 is allowed by relaxing the provisions of Regulation 9 (2) of the 2009 regulations because of the same is for the purpose of obviating instances of tower failures.

TOTAL CAPITAL COST

16. Based on the above, gross block as given below has been considered for the purpose of tariff for the transmission asset, after allowing projected additional capital expenditure on works as claimed by the petitioner:

			(₹ in lakh)
Admitted capital cost as on 31.3.2009	Capital expenditure projected to be incurred during 2011-12	Total capital expenditure	estimated
19666.55	362.53	20029.08	

DEBT- EQUITY RATIO

17. Clause (2) of Regulation 12 of the 2009 regulations provides as under:-

“(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.”

18. The petitioner has claimed tariff based on debt-equity ratio of 50.56:49.44 as admitted on 31.3.2009 vide order dated 7.2.2008 in

Petition 127/2004. The petitioner has further claimed the amount of additional capital expenditure in the debt-equity ratio of 70:30 for the year 2011-12. For the purpose of tariff, equity considered for the transmission asset is as under:

(₹ in lakh)

Equity as on 1.4.2009	Notional equity due to additional capital expenditure for the period 2011-12	Average equity for 2011-12	Notional equity due to additional capital expenditure for the period 2012-14	Equity for the period 2012-14	Average equity for 2012-14
9723.50	108.76	9777.88	0.00	9832.26	9832.26

RETURN ON EQUITY

19. Regulation 15 of the 2009 regulations provides as under:

“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 be computed 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.”

20. The petitioner has prayed to be allowed 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 transmission licensee and the beneficiaries/long term transmission customers on year to year basis. BSEB has submitted that the provisions of Regulations 15 (3) of the 2009 regulations are very clear and unambiguous and accordingly need to be applied in its perspective. BSEB has further submitted that the request of the petitioner seeking the relaxation under Regulation 44 of the 2009 regulations is solely guided by the commercial considerations with the aim to get the expenses on this account earlier than actually due in accordance with the 2009 regulations. The petitioner in its rejoinder has submitted that as per order dated 3.8.2010 in Petition No. 38/2010, issue of change in MAT rate shall be addressed after amendment of 2009 regulations.

21. The Commission vide its order dated 3.8.2010 in Petition No. 17/2010 has already taken a decision to amend the 2009 regulations for allowing grossing up of the base rate of return with the applicable tax rate as per the Finance Act for the relevant year and for direct settlement of tax holidays between the generating company/transmission licensee and the beneficiaries/long- term transmission customers on year to year basis. The process of amendment to the 2009 regulations is under way, which will address the grievance of the petitioner with regard to the MAT rate. For the present,

return on equity has been computed as per the existing provision of Regulation 15 (3) of 2009 regulation as under:

(₹ in lakh)					
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
Opening Equity as on 1.4.2009	9723.50	9723.50	9723.50	9832.26	9832.26
Addition due to Additional Capitalisation	0.00	0.00	108.76	0.00	0.00
Closing Equity	9723.50	9723.50	9832.26	9832.26	9832.26
Average Equity	9723.50	9723.50	9777.88	9832.26	9832.26
Return on Equity (Base Rate)	15.50%	15.50%	15.50%	15.50%	15.50%
Tax rate for the year 2008-09	11.33%	11.33%	11.33%	11.33%	11.33%
Rate of Return on Equity (Pre Tax)	17.481%	17.481%	17.481%	17.481%	17.481%
Return on Equity (Pre Tax)	1699.77	1699.77	1709.27	1718.78	1718.78

INTEREST ON LOAN

22. Regulation 16 of the 2009 regulations provides as under:-

"16. (1) The loans arrived at in the manner indicated in regulation 12 shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2009 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2009 from the gross normative loan.

(3) The repayment for the year of the tariff period 2009-14 shall be deemed to be equal to the depreciation allowed for that year:

(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the annual depreciation allowed.

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the project:

Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered:

Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

(7) The generating company or the transmission licensee, as the case may be, shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall

be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company or the transmission licensee, as the case may be, in the ratio of 2:1.

(8) The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing.

(9) In case of dispute, any of the parties may make an application in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time, including statutory re-enactment thereof for settlement of the dispute:

Provided that the beneficiary or the transmission customers shall not withhold any payment on account of the interest claimed by the generating company or the transmission licensee during the pendency of any dispute arising out of re-financing of loan."

23. It can be seen that the normative loan and actual loan as on 1.4.2009 is nil and there is an addition to the normative loan during 2011-12 amounting to ₹ 253.77 lakh on account of proposed additional capital expenditure of ₹ 362.53 lakh which gets repaid in the same year. Therefore, interest on loan has not been considered for the purpose of tariff calculation.

DEPRECIATION

24. 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.

Provided that in case of hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for creation of the site:

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciable value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff.

(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."

25. As the entire loan for the transmission assets covered in the present petition has already been repaid, the depreciation has been worked out by spreading the balance depreciation value over the remaining useful life of the transmission assets. The same methodology had been followed in the 2004-09 tariff period.

26. For the period 1.4.2009 to 31.3.2014 the depreciation of the transmission assets has been worked out as under:

(` in lakh)						
Details of Depreciation	Up to 31.3.2009	2009-10	2010-11	2011-12	2012-13	2013-14
Gross block as per last order	19666.55	19666.55	19666.55	19666.55	20029.08	20029.08
Addition during 2009-14 due to projected Additional Capital Expenditure		0.00	0.00	362.53	0.00	0.00
Gross block as on 31.3.2009		19666.55	19666.55	20029.08	20029.08	20029.08
Average gross block		19666.55	19666.55	19847.82	20029.08	20029.08
Rate of Depreciation		5.1211%	5.1211%	5.1225%	5.1240%	5.1240%
Depreciable Value		17475.78	17475.78	17638.92	17802.06	17802.06
Weighted Balance Useful life (22 years as on 1.4.2004 as per petition 127/2004)		17	16	15	14	13
Remaining Depreciable Value		5819.97	5477.62	5298.41	5108.32	4743.44
Depreciation		342.35	342.35	353.23	364.88	364.88

OPERATION & MAINTENANCE EXPENSES

27. In accordance with clause (g) of Regulation 19 of the 2009 regulations, the following norms have been specified for operation and maintenance expenses:

Transmission Line/Bays:	Year				
	2009-10	2010-11	2011-12	2012-13	2013-14
400 kV Double Circuit (twin conductor) transmission line (₹ in lakh/per kms.)	0.627	0.663	0.701	0.741	0.783
400 kV Single Circuit (twin conductor) transmission line (₹ in lakh/per kms.)	0.358	0.378	0.400	0.423	0.447
400 KV bay (₹ lakh/bay)	52.40	55.40	58.57	61.92	65.46

28. The petitioner's entitlement towards O & M expenses has been worked out as given hereunder:

(₹ in lakh)

Element	Year				
	2009-10	2010-11	2011-12	2012-13	2013-14
O & M expenses for 400 KV double Circuit, twin conductor transmission line (325 Kms)	203.78	215.48	227.83	240.83	254.47
O & M expenses for 400 KV single Circuit, twin conductor transmission line (174 Kms)	62.29	65.77	69.60	73.60	77.78
400 KV bays (15 bays)	786.00	831.00	878.55	928.80	981.90
Total	1052.07	1112.25	1175.98	1243.23	1314.15

29. The petitioner has submitted that O & M expenditure for 2009-14 tariff block had been arrived on the basis of normalized actual O & M expenses of the petitioner during the year 2003-04 to 2007-08. The wage hike of 50% on account of pay revision of the employees of public sector undertaking was also considered while calculating the O & M charges for 2009-14 periods. The petitioner has submitted that it would approach

the Commission for suitable revision in the norms of O & M expenses in case the impact of wage hike w.e.f. 1.1.2007 is more than 50%. With reference to the submission of the petitioner, it is clarified that if any such application is made, it will be dealt with in accordance with law.

INTEREST ON WORKING CAPITAL

30. 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 two months' transmission charges claimed in the petition. In the tariff being allowed, receivables have been worked out on the basis of two 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.

(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. The petitioner has claimed O&M expenses for one month of O&M expenses of the

respective year which has been considered in the working capital.

(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 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.

31. BSEB has questioned the interest rate adopted by the petitioner for the computation of tariff as the same has been described as the State Bank of India Advance Rate (SBAR) whereas Regulation 18(3) of the 2009 regulations mandates that the Short Term Prime Lending Rate of SBI shall be the interest rate for computations of interest on working capital. In response, the petitioner has clarified that the SBAR of 12.25% per annum indicated in the petition is Short Term Prime Lending Rate of SBI as on 1.4.2009. Accordingly, Interest on working capital has been computed @12.25%.

32. The necessary computations in support of interest on working capital as under:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Maintenance Spares	157.81	166.84	176.40	186.48	197.12
O & M expenses	87.67	92.69	98.00	103.60	109.51
Receivables	531.56	542.09	556.71	572.08	584.50
Total	777.05	801.62	831.11	862.17	891.13
Rate of Interest	12.25%	12.25%	12.25%	12.25%	12.25%
Interest	95.19	98.20	101.81	105.62	109.16

TRANSMISSION CHARGES

33. The transmission charges being allowed for the transmission asset are summarised below:

	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	342.35	342.35	353.23	364.88	364.88
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	1699.77	1699.77	1709.27	1718.78	1718.78
Interest on Working Capital	95.19	98.20	101.81	105.62	109.16
O & M Expenses	1052.07	1112.25	1175.98	1243.23	1314.15
Total	3189.37	3252.56	3340.29	3432.50	3506.97

Application fee and the publication expenses

34. The petitioner has sought approval for the reimbursement of fee paid by it for filing the petition. BSEB has submitted that the filing fee should not be allowed in view of the Commission's order dated 11.9.2008 in Petition No. 129/2005. It is clarified that the said decision was applicable to the tariff period 2004-09. Per contra, Regulation 42 of the 2009 regulation provides that reimbursement of filing fees and expenses on publication of notices may be allowed in the discretion of the Commission. In accordance with our decision regarding reimbursement of filing fee during 2009-14 in order dated 11.9.2008 in

Petition No. 109/2009, the petitioner shall be entitled to recover the filing fee from the beneficiaries on *pro rata* basis. The petitioner shall also be entitled to recover the expenses on publication of notices from the beneficiaries on *pro rata* basis.

Service Tax

35. The petitioner in para 9.4 of the petition has prayed for reimbursement of service tax. We have already pointed out in our order dated 23.9.2010 in Petition No. 62/2009 that the petitioner is exempted from service tax as per the extant policy of the Government of India. Therefore, the prayer of the petitioner no more survives and is accordingly rejected.

Licence fee

36. BSEB has submitted that the licence fee is part of the O & M expenses and in the absence of separate provisions in the 2009 regulations, the request of the petitioner for allowing the licence fee to be recovered separately from the respondents should be rejected. In response, the petitioner has submitted that the licence fee which was introduced since 27.10.2008 only has not been captured in O & M norms. Licence fee being an extra burden on the petitioner needs to be reimbursed. In this regard, it is clarified that matter is under consideration of the Commission and the decision as and when taken will be applicable in case of the present petition as well.

37. The transmission charges allowed 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.

38. This order disposes of Petition No. 254/2010.

Sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON