

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 49/RP/2016

**in
Petition No. 248/TT/2015**

Coram:

**Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member**

**Date of Hearing : 24.10.2016
Date of Order : 27. 10.2016**

In the matter of:

Review of the order dated 30.5.2016 passed by the Commission in Petition No. 248/TT/2015.

And in the matter of:

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

.....**Petitioner**

Versus

1. Madhya Pradesh Power Trading Company Ltd.
Shakti Bhawan, Rampur, Jabalpur-482008
2. Maharashtra State Electricity Distribution Co. Ltd.
HONGKONG Bank Building 3rd Floor,
M.G. Road, Fort, Mumbai- 400001
3. Gujarat Urja Vikas Nigam Ltd.
Sardar Patel Vidyut Bhawan,
Race Course Road
Vadodara- 390007
4. Electricity Department
Govt. of Goa,
Vidyut Bhawan, Panaji- 403001



Vidyut Bhavan, Panaji- 403001

5. Electricity Department
Administration of Daman & Diu,
Daman- 396210
6. Electricity Department
Administration of Dadra Nagar Haveli,
U.T., Silvassa- 396230
7. Chhattisgarh State Electricity Board
P.O Sunder Nagar, Dangania, Raipur
Chhattisgarh-492013
8. Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Ltd.
3/54, Press Complex, Agra-Bombay Road
Indore-452008

.....**Respondents**

The following were present:

For petitioner : Shri M. G. Ramachandran, Advocate,PGCIL
Ms. Poorva Saigal, Advocate, PGCIL
Shri Rakesh Prasad, PGCIL
Shri Jasbir Singh, PGCIL

For respondents : None

ORDER

This review petition is filed by Power Grid Corporation of India Limited (PGCIL) seeking review of the order dated 30.5.2016 in Petition No. 248/TT/2015, wherein transmission tariff for Asset-I: 765 kV D/C Solapur – Aurangabad Transmission Line along with 2 x 240MVAR Switchable Line Reactor with associated bays at Solapur Sub-station (hereinafter referred to as “transmission asset”) was allowed for the period starting from the date of commercial operation to 31.3.2019. The review petitioner has requested to



review and rectify the order dated 30.5.2016 to the extent of allowing additional RoE in Petition No. 248/TT/2015.

2. The Scheme was approved by the Board of review petitioner's company vide Investment Approval (IA) dated 23.10.2013 and the assets included in the Scheme were scheduled to be commissioned within 36 months from the date of IA. Asset-I was commissioned on 7.10.2015 and Asset-II was anticipated to be commissioned in October, 2016. As there was delay in commissioning of Asset-II, the PGCIL was directed vide order dated 30.5.2016 in Petition No. 248/TT/2015 to file a separate petition for Asset-II and accordingly, tariff was allowed only for Asset-I, i.e. 765 kV D/C Solapur-Aurangabad Transmission Line along with 2 x 240 MVAR Switchable Line Reactor with associated bays at Solapur Sub-station.

3. The actual date of commercial operation of the instant transmission asset was 7.10.2015 (24 months). The petitioner prayer for additional RoE of 0.5% as the asset was commissioned within 40 months, the timeline specified in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for grant of additional RoE of 0.5%. However additional RoE was not allowed as the RPC certificate submitted by the review petitioner did not clearly state that the early completion of the asset will benefit the system operation in the regional/national grid as required under proviso (iii) of Regulation 24(2) of 2014, Tariff Regulations. The review petitioner has filed the instant petition seeking review of the said order to the extent of allowing additional RoE.



4. The Commission in its order dated 30.5.2016, while dealing with the issue of additional RoE of the assets covered in Petition No. 248/TT/2015 held as under:-

“29. In view of the petitioner’s claim of additional RoE of 0.5%, the Commission observes that part of the project i.e., 2 x 240 MVar switchable Line Reactors is yet to be commissioned. As per Regulation 24(2) of the 2014 Tariff Regulations, additional RoE is to be considered only if the project as a whole has been commissioned within the timeline specified in Appendix-I of the 2014 Tariff Regulations, but with an exception vide Regulation 24(2)(iii) which specifies that it can be considered in a case wherein it has been certified by RPC/NPC that the element of a project completed within the time specified will benefit the system operation in the regional/national grid. However, the certificate submitted by the petitioner doesn’t state whether the element will benefit the system and further the entire project is yet to achieve COD and hence we are not inclined to allow the petitioner’s claim for additional RoE.

5. Aggrieved by the said order, the review petitioner has filed the instant review petition. The review petitioner has submitted that disallowance of additional RoE of 0.5% is an error apparent on the face of record and needs to be rectified.

6. The grounds submitted by the review petitioner for review of the order dated 30.5.2016 are as under:-

- a. As per proviso (i) of clause (2) of Regulation 24 of the 2014, Tariff Regulations if the entire transmission project gets commissioned within the timelines specified in Appendix I, an additional RoE of 0.5% will be admissible. However, as per proviso (iii) of clause (2) of Regulations 24, additional ROE of 0.5% may be allowed if any element of the transmission project is completed within the specified timelines and certified by RPC/



NPC that commissioning of particular element will benefit the system operation in regional/national grid.

- b. The review petitioner has submitted that the petitioner's prayer for additional RoE of 0.5% was disallowed in order dated 30.5.2016, though relevant document were placed on record in the main petition. The review petitioner has further submitted that the review petitioner at the time of filing of original petition has submitted the WRPC certificate dated 15.3.2016 which specifically referred to proviso (iii) of Regulation 24(2) of the Tariff Regulations. The review petitioner submitted that the Commission proceeded on an erroneous assumption that the petitioner has not submitted the certificate from RPC certifying that the commissioning of that particular element would benefit the system operation the regional/national grid and additional ROE was disallowed.
- c. The review petitioner has now submitted a revised WRPC certificate dated 13.6.2016 confirming that the early commissioning of the element shall benefit the transmission system.
- d. The Commission in a similar case, vide order dated 29.4.2016 in Petition No. 104/TT/2014 has allowed the additional ROE 0.5%. The relevant extract of the order is as under:-

"17. The petitioner has claimed ROE at the rate of 15.50% as per the above said Regulation. In addition to that the petitioner has also claimed additional ROE at the rate of 0.50% with regard to timely commissioning of the scheme as per 2014 Tariff Regulations. The petitioner has further submitted that the grossed up ROE is subject to truing up based on the actual tax paid along with any additional tax or interest, duly adjusted for any refund of tax including the interest received from IT authorities, pertaining to the tariff period 2014-19 on actual gross income of any financial year. Any under-recovery or over-recovery of grossed up ROE



after truing up shall be recovered or refunded to the beneficiaries on year to year basis.

19. We have considered the submissions made by the petitioner. With reference to Regulations 24 and Appendix I of 2014 tariff Regulations, the instant asset has been completed in time and qualifies for additional RoE.

- e. The review petitioner has submitted that the Commission in exercise of its power of review under section 94 of the Electricity Act, 2003 and on principles contained in order 47 Rule I of the Code of Civil Procedure, 1908 may review impugned order and allow additional RoE of 0.5% as the review petitioner has demonstrated sufficient cause to review and rectify the error in order dated 30.5.2016 in Petition No. 248/TT/2015.

7. The hearing for admission was held on 5.10.2016. The review petition was admitted on 14.10.2016. The review petitioner was directed to serve the copy of the review petition along with the order on the respondents by 20.10.2016. The respondents were given time to file their replies by 24.10.2016, with copy to the PGCIL. However, none of the respondents have filed their reply.

8. We have heard the learned counsel for the review petitioner and have examined the document on record. The additional RoE of 0.5% was not allowed as the review petitioner did not produce the certificate from Regional Power Committee/National Power Committee certifying that commissioning of the particular element will benefit the system operation in the regional/national grid under proviso (iii) to Regulation 24(2) of the 2014 Tariff Regulations. However,



since the review petitioner has now submitted appropriate certificate and the extract of the relevant certificate dated 13.6.2016 is as under:

"This is to certify that the following transmission elements of PGCIL WRTS-I project have been commissioned within timelines as per the claim made by PGCIL WR-I, vide letter dated 19.2.2016 and certification issued by WRLDC stating commissioning of the following elements will be beneficial for system operation in Regional/ National grid vide their letter dated 14.3.2016."

9. We have considered the review petitioner submissions. The instant transmission element was commissioned within the timeline specified in the 2014 Tariff Regulations and the review petitioner has submitted a certificate as provided under Regulation 24(2) of 2014 Tariff Regulation stated that commissioning of the instant asset will benefit system operation in national/regional grid. Accordingly, in exercise of the power of review under Section 94 of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, the review petition is allowed and additional RoE of 0.5% for transmission asset covered in impugned order in Petition No. 248/TT/2015 is allowed.

10. The instant review petition is allowed and accordingly the consequential revision of tariff in Petition No. 248/TT/2015 on account of change in computation of Return on Equity and Interest on Working Capital is shown below:-

Return on Equity ("ROE")

11. Clause (1) & (2) of Regulation 24 and Clause (2) of Regulation 25 of the 2014 Tariff Regulations specify as under:-

"24. Return on Equity: (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 19.



(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating stations, transmission system including communication system...

Provided that:

i. in case of projects commissioned on or after 1st April, 2014, an additional return of **0.50 %** shall be allowed, if such projects are completed within the timeline specified in **Appendix-I**:

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

iii. additional RoE of 0.50% may be allowed if any element of the transmission project is completed within the specified timeline and it is certified by the Regional Power Committee/National Power Committee that commissioning of the particular element will benefit the system operation in the regional/national grid."

"25. Tax on Return on Equity:

(2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

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

Where "t" is the effective tax rate in accordance with Clause (1) of this regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT), "t" shall be considered as MAT rate including surcharge and cess."

12. The petitioner has computed ROE at the rate of 20.243% after grossing up the ROE with MAT rate as per the above Regulation. The petitioner has further submitted that the grossed up ROE is subject to truing up based on the actual tax paid along with any additional tax or interest, duly adjusted for any refund of tax including the interest received from IT authorities, pertaining to the tariff period 2014-19 on actual gross income of any financial year. Any under-recovery or over-recovery of grossed up ROE after truing up shall be recovered or refunded to the beneficiaries on year to year basis.



13. The petitioner has further submitted that adjustment due to any additional tax demand including interest duly adjusted for any refund of the tax including interest received from IT authorities shall be recoverable/adjustable after completion of income tax assessment of the financial year.

14. Further, Regulation 24 read with Regulation 25 of the 2014 Tariff Regulations provides for grossing up of return on equity with the effective tax rate for the purpose of return on equity. It further provides that in case the generating company or transmission licensee is paying Minimum Alternative Tax (MAT), the MAT rate including surcharge and cess will be considered for the grossing up of return on equity. The petitioner has submitted that MAT rate is applicable to the petitioner's company. Accordingly, the MAT rate applicable during 2013-14 has been considered for the purpose of return on equity, which shall be trued up with actual tax rate in accordance with Regulation 25 (3) of the 2014 Tariff Regulations. Accordingly, the ROE determined by the Commission is shown in the table below:-

(₹ in lakh)

Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
Opening Equity	27418.50	30584.51	33765.70	34376.22
Addition due to Additional Capitalization	3166.00	3181.19	610.52	0.00
Closing Equity	30584.51	33765.70	34376.22	34376.22
Average Equity	29001.50	32175.10	34070.96	34376.22
Return on Equity (Base Rate) (%)	16.00	16.00	16.00	16.00
MAT rate for the year (%)	20.961	20.961	20.961	20.961
Rate of Return on Equity (Pre Tax) (%)	20.243	20.243	20.243	20.243
Return on Equity (Pre Tax)	2839.15	6513.21	6896.98	6958.78



(□ in lakh)

Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
RoE allowed in Order dated 30.5.2016	2750.36	6309.54	6681.32	6741.18
Return on Equity (Pre Tax) – Revised	2839.15	6513.21	6896.98	6958.78

Interest on Working Capital (“IWC”)

15. Clause 1 (c) of Regulation 28 and Clause 5 of Regulation 3 of the 2014

Tariff Regulations specify as follows:

“28. Interest on Working Capital

(c)(i) Receivables equivalent to two months of fixed cost;

(ii) Maintenance spares @ 15% of operation and maintenance expenses specified in regulation 29; and

(iii) Operation and maintenance expenses for one month”

“(5)Bank Rate’ means the base rate of interest as specified by the State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points;”

16. The petitioner has submitted that it has computed IWC for the tariff period 2014-19 considering the SBI Base Rate as on 1.4.2014 plus 350 basis points.

The rate of interest on working capital considered is 13.50%.

17. The interest on working capital is worked out in accordance with Regulation 28 of the 2014 Tariff Regulations. The rate of interest on working capital considered is 13.50% (SBI Base Rate of 10% plus 350 basis points). The interest on working capital as determined by the Commission is shown in the table below:-



(□ in lakh)

Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
Maintenance Spares	47.47	101.41	104.79	108.28
O & M expenses	26.37	56.34	58.22	60.15
Receivables	1452.59	3262.45	3366.42	3308.84
Total	1526.44	3420.20	3529.43	3477.27
Rate of Interest (%)	13.50	13.50	13.50	13.50
Interest	206.07	461.73	476.47	469.43

(□ in lakh)

Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
Interest allowed in Order dated 30.5.2016	204.03	457.04	471.51	464.42
Interest – Revised	206.07	461.73	476.47	469.43

Annual Transmission Charges

18. The detailed computation of the various components of the annual fixed charges for the asset for the tariff period 2014-19 is summarised below:-

(□ in lakh)

Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
Gross Block				
Opening Gross Block	91395.01	101948.35	112552.33	114587.41
Additional Capitalisation	10553.34	10603.98	2035.08	0.00
Closing Gross Block	101948.35	112552.33	114587.41	114587.41
Average Gross Block	96671.68	107250.34	113569.87	114587.41
Depreciation				
Rate of Depreciation	5.279	5.275	5.271	5.271
Depreciable Value	87004.51	96525.31	102212.88	103128.67
Elapsed Life (Beginning of the year)	0	1	2	3
Weighted Balance Useful life of the assets	35	34	33	32
Remaining Depreciable Value	87004.51	94057.30	94087.80	89016.81
Depreciation	2468.01	5657.07	5986.78	6040.31
Interest on Loan				
Gross Normative Loan	63976.51	71363.85	78786.63	80211.19



Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
Cumulative Repayment upto Previous Year	0.00	2468.01	8125.08	14111.86
Net Loan-Opening	63976.51	68895.84	70661.55	66099.33
Additional Capitalisation	7387.34	7422.79	1424.56	0.00
Repayment during the year	2468.01	5657.07	5986.78	6040.31
Net Loan-Closing	68895.84	70661.55	66099.33	60059.02
Average Loan	66436.17	69778.69	68380.44	63079.17
Weighted Average Rate of Interest on Loan	8.982	8.981	8.979	8.977
Interest	2885.83	6266.62	6139.65	5662.69
Return on Equity				
Opening Equity	27418.50	30584.51	33765.70	34376.22
Additions	3166.00	3181.19	610.52	0.00
Closing Equity	30584.51	33765.70	34376.22	34376.22
Average Equity	29001.50	32175.10	34070.96	34376.22
Return on Equity (Base Rate)	16.00	16.00	16.00	16.00
MAT Rate for the year 2013-14	20.961	20.961	20.961	20.961
Rate of Return on Equity (Pre Tax)	20.243	20.243	20.243	20.243
Return on Equity (Pre Tax)	2839.15	6513.21	6896.98	6958.78
Interest on Working Capital				
Maintenance Spares	47.47	101.41	104.79	108.28
O & M expenses	26.37	56.34	58.22	60.15
Receivables	1452.59	3262.45	3366.42	3308.84
Total	1526.44	3420.20	3529.43	3477.27
Interest	206.07	461.73	476.47	469.43
Annual Transmission Charges				
Depreciation	2468.01	5657.07	5986.78	6040.31
Interest on Loan	2885.83	6266.62	6139.65	5662.69
Return on Equity	2839.15	6513.21	6896.98	6958.78
Interest on Working Capital	206.07	461.73	476.47	469.43
O & M Expenses	316.50	676.08	698.62	721.85
Total	8715.55	19574.70	20198.51	19853.06



(□ in lakh)

Particulars	2015-16 (Pro-rata)	2016-17	2017-18	2018-19
Allowed in Order dated 30.5.2016	8624.73	19366.34	19977.87	19630.45
Total – Revised AFC	8715.55	19574.70	20198.51	19853.06

19. All other terms contained in order dated 30.5.2016 in Petition No. 248/TT/2015 remains unaltered.

20. This order disposes of Petition No. 49/RP/2016 in Petition No. 248/TT/2015.

Sd/-
(Dr. M. K. Iyer)
Member

Sd/-
(A.S. Bakshi)
Member

