

**BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

PETITION NO.:

IN THE MATTER OF: Approval under Regulation 86 of CERC (Conduct of Business) Regulations'1999, and CERC (Terms and Conditions of Tariff) Regulations'2009 for transmission tariff for Transmission System associated with Auraiya Gas Power Project in Northern Region for the period from 1.4.2009 to 31.3.2014

Power Grid Corporation of India Ltd.
(Govt. of India undertaking)
Registered office: B-9, Qutab Institutional Area,
Katwaria Sarai, New Delhi. 110 016.
Corporate Centre: 'SAUDAMINI', Plot No-2,
Sector-29, Gurgaon-122 001 (Haryana).

--- PETITIONER

Himachal Pradesh State Electricity Board
Vidyut Bhawan
Kumar House Complex Building II
SHIMLA-171 004 (HP)
Represented by its Chairman
and Others

---- RESPONDENTS

To

The Hon'ble Chairman and
his Companion Members of The Hon'ble CERC
The Humble application filed by the Petitioner

MOST RESPECTFULLY SHOWETH

- 1.0 That, Hon'ble Commission have made CERC (Terms and Conditions of Tariff) Regulations, 2009 and issued vide notification dated 19.01.2009 . These regulations shall remain in force for a period of 5 years w.e.f. 01.04.2009, unless reviewed earlier or extended by the Hon'ble Commission.
- 2.0 The Petitioner herein, Power Grid Corporation of India Ltd. is a Government Company within the meaning of Companies Act, 1956. In exercise of powers under sub-section (1) of section 38(1) the Electricity Act 2003, the Government of India has declared the Petitioner herein as the Central Transmission Utility (CTU). The petitioner being CTU is deemed to be a transmission licensee under section 14 of the Electricity Act'2003.
- 3.0 The petitioner being CTU and transmission licensee, therefore, is required to inter-alia built, maintain and operate an efficient, co-ordinated and economical inter



transmission system (ISTS). The tariff for the said transmission systems shall be determined by the Hon'ble Commission in accordance with Regulation-2 of the CERC (Terms and Conditions of Tariff) Regulations, 2009.

That the petitioner has executed transmission system associated with Auraiya Gas Power Project in Northern Region and various elements of this transmission system have been put under commercial operation progressively from 1989 to 1991. Schematic diagram of transmission system is enclosed as **Encl.-1, page 3.2**

That the final Transmission Tariff based on admitted capital cost including Additional Capitalization (if any) for all the assets of the said transmission system covered under this petition for the tariff period 2004 - 2009 up to 31.03.2009 has been approved by the Hon'ble Commission vide its order dated 12.12.2005 in petition No.: 105/2004 and its amendment vide its order dated 29.02.2008. Copies whereof are attached hereto as **Encl. 2, page 3.3 to 3.5**. That the capital cost admitted by Hon'ble commission as on 01.04.2004-01.04.2009 is Rs.11733.83 lakhs and same has been considered for calculation of tariff for 2009-14 period.

TRANSMISSION TARIFF

That as per regulation 13 (3) and regulation 14 of the CERC (Terms and Conditions of Tariff) Regulations, 2009, the tariff for transmission of electricity on ISTS shall comprise transmission charge for recovery of annual fixed cost consisting of (a) Return on Capital, (b) Interest on Loan, (c) Depreciation, (d) Interest on Working Capital and (e) Operation and maintenance expenses. The tariff for block 2009-2014 has been worked out as per Appendix-I of the tariff regulations for period 2009-14 and the Tariff Filing Form (its relevant forms) along with the other relevant information and supporting documentation (if any) are attached hereto as **Encl.- 3, page 3.6 to 3.8**

The tariff from 01.04.2009 to 31.03.2014 is summarized below :

Period	Annual Fixed Cost (Rs. Lakh)
2009 - 2010	1653.87
2010 - 2011	1683.83
2011 - 2012	1715.85
2012 - 2013	1749.43
2013 - 2014	1784.83

Hon'ble Commission vide its order dated 12.12.2005 and 29.02.2008 in Petition no 105/2004 has notified balance useful life as on 01.04.2004 as 21 years. Based upon the above the balance useful life as on 01.04.2009 comes to 16 years. Considering the above fact the depreciation comes to Rs.216.72 lakh per year and the same value of depreciation has been considered in calculation of the tariff for 2009-14 block periods.

That it is submitted that the ROE has been calculated @ 17.481 % based on the rate notified by the Hon'ble Commission as per illustration under regulation 15 (4) (i) of the CERC (Terms and Conditions of Tariff) Regulations, 2009. It is further submitted that the above rate of 17.481 % is based on the present MAT rate of 11.33 % currently being applicable to the Petitioner. The Petitioner reserves the right to approach the Hon'ble Commission if and when the applicable MAT rate undergoes change or revised as per the

Finance Act of respective year as provided under Regulation 15 (3) of the said Regulations.

The Interest on Loan has been calculated on the basis of rate prevailing as on 01.01.2009. The change in Interest rate due to floating rate of interest applicable, if any, for the project needs to be claimed & adjusted over the tariff block of 05 years directly borne with the beneficiaries as was being followed during the tariff block 2004-09.

The transmission charges at para-6.1 above is inclusive of O&M expenses for the project derived based on the norms for O&M expenditure as specified under regulation 19(g) of the tariff regulations for block 2009-14. It is the understanding of the petitioner that these norms for O&M expenditure been arrived by the Hon'ble Commission after considering (i) normalized actual O&M expenses of the petitioner on its various projects in various regions during the year 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, (ii) the base norms so arrived is escalated at 5.72% per annum to arrive at norms for years of tariff period 2009-14, (iii) and also wage hike of 50% on account of pay revision of the employees of Public Sector Undertakings. It is submitted that the wage revision of the employees of the petitioner company is due w.e.f. 1.1.2007 and actual impact of wage hike is still not known. The petitioner reserves the right to approach the Hon'ble Commission for suitable revision in the norms for O&M expenditure in case the impact of wage hike is more than 50%.

The transmission Charge and other related Charges indicated at para 6.1 above, is exclusive of incentive, late payment surcharge, FLRV, any statutory taxes, levies, duties, cess, log fees, *license fee* or any other kind of imposition (s) and/or other surcharges (if any) so ever imposed/charged by any Government (Central/State) and/or any other government authorities regulatory authorities in relation to transmission of electricity, environmental protection, and/or in respect of any of its installation associated with the Transmission System and the same shall be borne and additionally paid by the respondent(s) to the petitioner and the same shall be charged, billed separately by the respondent(s) on the respondents.

Service tax:

Chairman, ESTM in the case of M.P. Power Transmission Co. Ltd. V. CCE(2008-TIOL-946) [117 ELT(Del)] gave a prima facie finding while passing an order in a stay application that the charges recovered for transmission of electricity by the transmission company would be liable to service tax under the category of 'Support services of business or commerce' ('BSS'). The Tribunal found that the services provided by the activities of a power transmission company have a very close nexus with the activities of power generating and distribution companies and that the business of generation and sale of electricity cannot be completed without the support of the transmission company. While passing the order, the Tribunal relied on two expressions viz (a) services provided in relation to business or commerce and (b) managing distribution and logistics used in the facilitation of Business Support Service to demand service tax.

On the basis of the above order, the Departmental officers all over India are compelling transmission companies to pay service tax on the transmission charges received from generating or distribution companies. The petitioner, Power Grid Corporation of India

Ltd. is a government enterprise, which transmits power through its transmission system from Generating Plant to distribution centers/ bulk consumers, shall also be liable to pay service tax in view of above order.

The petitioner has taken up the matter with Ministry of Finance to issue necessary clarification stating that transmission of power is not a service chargeable to service tax in terms of section 64 of the Finance Act 1994. However no clarification has been issued so far.

The Transmission Charges indicated at para 6.1 to 6.6 above, is exclusive of Service Tax and the same shall be borne and additionally paid by the respondent(s) to the petitioner and the same shall be charged, billed separately by the petitioner.

Sharing of Transmission Charges

Tariff for Transmission of Electricity (Annual Fixed Cost) as per para 6.1 to 6.6 above shall be recovered on monthly basis in accordance with Regulation 23 and shall be shared by the respondents in accordance with regulation 33 of CFRC (Terms and Conditions of Tariff Regulations, 2009).

In the circumstances mentioned above it will be just and proper that the transmission tariff for the assets covered under this petition be allowed to be charged from the respondents on the basis set out in para-6 above. **The Petitioner submits that the Fuel, 4 to Fuel-4 may please be treated as integral part of this petition.**

PRAYER

It is respectfully prayed that the Hon'ble Commission may be pleased to

approve the Transmission Tariff for the assets covered under this petition, as per para - 6 above.

approve the reimbursement of expenditure by the beneficiaries towards petition filing fees, license fees, publication expenditures and other expenditure (if any) in relation to the filing of petition.

approve, order and approve for inclusion of Service Tax as one of the components to be covered in Transmission Charges.

grant such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice

**FILED BY
POWER GRID CORPORATION OF INDIA LTD.**



**REPRESENTED BY RAKESH PRASAD
DY. GENERAL MANAGER (COMMERCIAL)**

REGIONS

CPD/23/06/2009

