

**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 Uri Hydroelectric Project (4x120 MW) 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 state 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.

*Handwritten signature*



1.0 That the petitioner has executed transmission system associated with 1st Hydroelectric Project (4x120MW) in Northern Region and various elements of this transmission system have been put under commercial operation progressively from 1.4.1997 to 1.2.1998. Schematic diagram of transmission system is enclosed as **Encl.-1, page 1.3**

5.0 That the final Transmission Tariff based on admitted capital cost including Additional Capitalisation (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 23.11.2005 in petition No.: 100/2004. copy whereof are attached hereto as **Encl.-2, page 1.4 to 2.6**. That the capital cost admitted by Hon'ble commission as on 01.04.2004/01.04.2009 is Rs 23000.00 lakhs and same has been considered for computation of tariff for 2009-14 period.

## 6.0 TRANSMISSION TARIFF

6.1 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 Equity, (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 Formats (relevant Forms) along with the other relevant information and supporting documentation (if any) are attached hereto as **Encl.- 3, page 2.7 to 3.6**

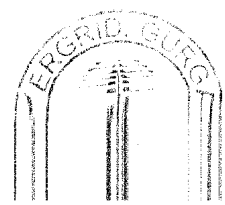
The tariff from 01.04.2009 to 31.03.2014 is summarized below :

Period	Annual Fixed Cost (Rs. Lakh)
2008 – 09 (existing)	2212.95
2009 – 2010	2632.70
2010 - 2011	2658.10
2011 – 2012	2684.94
2012 – 2013	2713.26
2013 – 2014	2743.19

6.2 Hon'ble Commission vide its order dated 23.11.2005 in Petition no 100/2004 has notified balance useful life as on 01.04.2004 as 25 years. Based upon the above the balance useful life as on 01.04.2009 comes to 20 years. That while calculating depreciation for 2009-14 block period, the life of the asset has been considered as 20 years as on 01.04.2009. Further land of value of Rs. 254.00 Lakhs is under the category of leasehold land and accordingly depreciation has been calculated.

6.3 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 changed / revised as per the Finance Act of respective year as provided under Regulation 15 (3) of the said Regulations.

20-21-4/14



- 6.4 That Interest on Loan has been calculated on the basis of rate prevailing as on 01.04.2009. 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 from / with the beneficiaries as was being followed during the tariff block 2004-09.
- 6.5 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 reserve 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%.
- 6.6 The Transmission Charges and other related Charges indicated at para 6.1 above, is exclusive of incentive, late payment surcharge, FERV, any statutory taxes, levies, duties, cess, filing fees, license fee or any other kind of imposition (s) and/ or other surcharges etc. whatsoever imposed / charged by any Government (Central/State) and / or any other local bodies/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 petitioner on the respondents.

6.7 **Service Tax:**

That the CESTAT in the case of M.P.Power Transmission Co. Ltd. V.CCE(2008-TIOL-940-CESTAT-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 definition 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

Handwritten signature and stamp at the bottom right of the page.

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.

6.8 It is submitted that the unit O&M rates applicable for 2009-2014 which are specified in CERC (Terms and Conditions of Tariff) Regulations, 2009 have been derived based on the actual O&M expenses for the 2003-04 to 2007-08. It may kindly be mentioned that while deriving the unit O&M rates, the abnormal expenses on account of deployment of additional security etc. have not been considered. Further, the provision regarding claiming of such abnormal O&M expenses separately by way of petition have also not been provided in the tariff regulations for 2009-2014. The petitioner submits that in view of the above, it is finding difficulty in giving effect to Regulation 19 (g) of CERC (Terms and Conditions of Tariff) Regulation, 2009.

6.8.1 The Regulations 44 of the CERC terms and conditions of tariff regulations, 2009 contains following provisions:-

**QUOTE**

**Power to Relax:** The commission, for reasons to be recorded in writing, may relax any of provisions of these regulations on its own motion or an application made before it by an interested person.

**UNQUOTE**

6.8.2 The law and order situation in J&K has not improved, requiring continuation of deployment of additional security forces at Wagoora substation. The petitioner submits that the expenses towards deployment of additional security force would be additional O&M expenses which needs to be recovered from the beneficiary states. The petitioner therefore prays the Hon'ble Commission under Regulation 44, i.e. "Power to Relax", make provisions for recovery of the abnormal O&M expenses. The recovery of abnormal O&M expenses on account of deployment of additional security forces during the tariff period may be permitted through direct billing on beneficiaries at the end of each year, based on certificate by the Statutory Auditors.

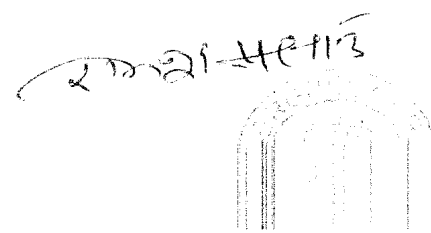
7.0 **Sharing of Transmission Charges**

Tariff for Transmission of Electricity as per para 6.0 above shall be recovered in accordance with Regulation 23 and shall be shared by the respondents in accordance with regulation 33 of CERC (Terms and Conditions of Tariff) Regulations, 2009.

8.0 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 Encl.-1 to Encl.-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

2021-11-13  


- 1) approve the Transmission Tariff for the assets covered under this petition as per para 6 above
- 2) Permit recovery of abnormal O&M expenses towards deployment of additional security forces based on statutory auditors certification after closing of annual accounts by way of direct billing on the respondents for each year during the tariff period.
- 3) 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.
- 4) Consider and approve for inclusion of Service Tax as one of the components to be covered in Transmission Charges.
- 5) pass 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.**

*Rakesh Prasad*

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

**GURGAON**

**DATED: 03.06.2009**

