

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 243/TT/2020

- Subject** : Petition for revision of transmission tariff of 2001-04, 2004-09 and 2009-14 periods, truing up of transmission tariff of 2014-19 period and determination of transmission tariff of 2019-24 period for three no. of assets under “NLC-I Transmission System in Southern Region” in Southern Region.
- Date of Hearing** : 3.8.2021
- Coram** : Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member
- Petitioner** : Power Grid Corporation of India Ltd.
- Respondents** : Karnataka Power Transmission Corporation Ltd.
& 16 Others
- Parties present** : Shri S. Vallinayagam, Advocate, TANGEDCO
Shri S. S. Raju, PGCIL
Shri D.K. Biswal, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A.K. Verma, PGCIL
Dr. R. Kathiravan, TANGEDCO
Ms. R. Ramalakshmi, TANGEDCO
Shri R. Srinivasan, TANGEDCO

Record of Proceedings

Case was called out for virtual hearing.

2. The representative of the Petitioner made the following submissions:
 - a. The instant petition has been filed for revision of transmission tariff of 2001-04, 2004-09 and 2009-14 tariff periods, truing up of transmission tariff of 2014-19 period and determination of transmission tariff of 2019-24 period in respect of transmission asset covered under “NLC-I Transmission System in Southern Region”. The subject asset was put under commercial operation on 1.4.1992.



- b. Revised tariff of 2001-04, 2004-09 and 2009-14 periods is claimed pursuant to directions of the Commission in order dated 18.1.2019 in Petition No. 121/2007 in line with APTEL judgments dated 22.1.2007 and 13.6.2007 in Appeal Nos. 81 of 2005 and 139 of 2006 respectively.
- c. The tariff of the 2009-14 period was trued up and of 2014-19 tariff period for the instant transmission asset was determined by the Commission vide order dated 29.1.2016 in Petition No. 204/TT/2014.
- d. There is marginal variation in the capital cost and Additional Capital Expenditure (ACE) allowed vide order dated 29.1.2016 in Petition No. 204/TT/2014 for 2014-19 tariff period compared to capital cost and ACE claimed in the present petition.
- e. ACE has been claimed during 2019-24 period on account of replacement of defective and obsolete equipment.
- f. Reply to the Technical Validation letter has been submitted vide affidavit dated 1.7.2021 wherein letters from OEM and pictures of replaced equipment alongwith detailed justification for ACE during 2019-24 tariff period have been submitted.
- g. No reply has been filed by any of the Respondents.
3. Learned counsel for TANGEDCO sought time to file reply on the issue of maintainability of the petition for revision of tariff and made the following submissions:
- a. Petition No. 121/2007 was filed under Section 64(5) and Section 79 of the Electricity Act, 2003 (for short, "the Act"). Invocation of Section 64(5) of the Act was erroneous inasmuch as this section specifically relates to State Electricity Regulatory Commissions. Power has been conferred upon the Central Commission under Section 79 of the Act. Section 79 and Section 64(5) of the Act cannot be invoked together. Therefore, the Petitioner could have only filed a Review Petition or an Appeal insofar as Petition No. 121/2007 was concerned. Hence, the said order is erroneous.
- b. The Petitioner was not a party to Appeal Nos. 81 of 2005 and 139 of 2006 which were filed by NTPC. The Petitioner cannot be allowed to take advantage of judgments of APTEL issued in favour of NTPC when the Petitioner does not have a finding in its favour from APTEL.
- c. In its judgment dated 13.6.2007 in Appeal No. 139 of 2006, APTEL did not allow revision of tariff. Further, NTPC went in Appeal against the order of the Central Commission in the same tariff period. The APTEL judgment is applicable for only 2004-09 tariff period.
- d. In its judgment dated 22.1.2007 in Appeal No. 81 of 2005, APTEL has not allowed retrospective revision of tariff. Further, the judgment of Appeal No. 81 of 2005 is applicable for 2001-04 tariff period only.



e. The Petitioner has misled the Commission by giving a wrong statement that the APTEL has allowed revision of tariff of 2001-04, 2004-09 and 2009-14 tariff periods.

f. The judgments in Appeal Nos. 81 of 2005 and 139 of 2006 are applicable only *in personam* and are specific to NTPC. The said judgments cannot be applied in an omnibus manner.

g. No Tariff Regulations permit revision of tariff of 2001-04, 2004-09 and 2009-14 tariff periods.

h. The Petitioner never filed Appeals against the orders which determined the final tariff of 2001-04, 2004-09 and 2009-14 tariff periods and as such the said orders have attained finality and tariff determined there cannot be reopened.

4. The Commission allowed the request of learned counsel for TANGEDCO to file reply on maintainability and merits of the petition by 25.8.2021 and the Petitioner to file rejoinder, if any, by 9.9.2021. The Commission further directed the parties to adhere to the specified timeline and observed that no extension of time shall be granted.

5. Subject to above, the Commission reserved order in the matter.

By order of the Commission

sd/-
(V. Sreenivas)
Deputy Chief (Law)

