



सत्यमेव जयते

**ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN**

CASE NO. OA-431/22-23

IN REGARD TO THE APPLICATION SUBMITTED BY THE DAMODAR VALLEY CORPORATION FOR APPROVAL OF COMPOSITE TRANSMISSION AND DISTRIBUTION LOSS OF DVC FOR ITS DISTRIBUTION ACTIVITIES AND RETAIL SUPPLY OF ELECTRICITY FOR THE PART OF THE DAMODAR VALLEY AREA FALLING WITHIN THE TERRITORY OF THE STATE OF WEST BENGAL

PRESENT:

**SRI MALLELA VENKATESWARA RAO, CHAIRPERSON
SRI PULAK KUMAR TEWARI, MEMBER**

DATE: 22.01.2024



CASE IN BRIEF

- 1.0 Damodar Valley Corporation (in short 'DVC') has filed this petition for fixation of composite Transmission and Distribution Loss and modification of clause mentioned in Schedule - 9A for Normative Distribution and Transmission Loss in respect of DVC in the Terms and Conditions of Tariff Regulation, 2007 and 2011 and subsequent amendments thereto (hereinafter to be referred as Tariff Regulations 2007 and Tariff Regulations 2011). DVC filed this petition under Regulation 8.2, 8.3, 8.4 and 8.10 of the Terms and Conditions of Tariff Regulations, 2007 and 2011 to remove the difficulties faced by them to the extent of applicability of only Normative Distribution Loss to arrive at the Energy Balance.
- 2.0 DVC is a statutory body constituted under the DVC Act 1948 with multifarious functions. In regard to electricity, DVC under takes generation of electricity to supply in different State licensees, maintain transmission network in two States viz West Bengal and Jharkhand and also supply power to different licensees as well as consumers in West Bengal and Jharkhand.
- 3.0 DVC being a statutory body controlled by the Central Government, Central Electricity Regulatory Commission (in short 'CERC') determines the Generation Tariff and inter-state Transmission Tariff for the composite T&D network of DVC under Section 79(1)(a) of the Electricity Act, 2003. State Electricity Regulatory Commission in West Bengal and Jharkhand determines the retail tariff for supply of electricity to consumers in the respective State.
- 4.0 In the first order for DVC's generation and transmission tariff issued by CERC vide order dated 03.10.2006, CERC applied ratio of 87:13 for bifurcation of Capital Cost between transmission and distribution system. The order was challenged by this Commission (WBERC) before the Hon'ble Appellate Tribunal for Electricity (APTEL) on the ground that intra-state transmission and distribution network and determination of retail tariff and wheeling tariff of DVC pertaining to the territory of West Bengal falls within WBERC's jurisdiction. It was also prayed before the APTEL to segregate the intra-state transmission network and distribution network for tariff determination purpose. The order of CERC was also challenged by DVC, some consumers, Government of West Bengal and Government of Jharkhand before the APTEL on the same issue and along with some other issues. Hon'ble APTEL in its order dated 23.11.2007 had mentioned that the entire transmission system of DVC should be considered as Inter State



Transmission System where the HT lines from generating station to consumers are to be treated as dedicated transmission lines. Relevant portion of the judgement is reproduced below:

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110. Taking an integrated view of the above provisions and applying them to the instant case, it is clear that any ‘transmission line’ i.e. high pressure (HT) Cables and overhead lines (HT), excluding the lines which are essential part of distribution system of a licensee (WBSEB and JSEB as the case may be), used for the conveyance of electricity from a generating station onward by DVC and located in the territory of one State (either State of West Bengal or Jharkhand) to generating station or a sub-Station located in the territory of another State (either in the State of Jharkhand or West Bengal) together with any step-up and step down transformer, switch gear and other works necessary to and used for the control of such cables or overhead lines and such building or part thereof as may be required to accommodate such transformers, switch-gear and other works shall constitute the “Inter-State Transmission system” of DVC. Further, the transmission segments from the generating Stations to HT Consumers located in the same territory of a State are deemed ‘Dedicated transmission lines’ and are to be maintained and operated by DVC.

111. DVC has been supplying power from its generating stations to West Bengal Electricity Board and Jharkhand Electricity Board along with nearly 120 HT-Consumers either through inter-state transmission lines or through the point-to-point ‘dedicated transmission line’. We, therefore, conclude that all transmission systems of DVC be considered as unified deemed inter-state transmission system, insofar as the determination of tariff is concerned and as such regulatory power for the same be exercised by the Central Commission.”

- 5.0 The above mentioned APTEL order was challenged before the Hon'ble Supreme Court by CERC (Civil Appeal no. 4289/2008), M/s. Bhaskhar Shrachi Alloys Ltd. & Ors. (Civil Appeal No. 971 – 973/2008), State of Jharkhand (Civil Appeal No. 4504-4508/2008), the State of West Bengal (Civil Appeal No. 1914/2008) and WBERC (Appeal No. 804/2008). The matter was pending before the Hon'ble Supreme Court till final order was issued on 23.07.2018.
- 6.0 Since then WBERC is considering only Normative Distribution Loss as specified in Schedule-9 of the Tariff Regulation 2007 and 2011. It is also mentioned in the foot note under Table-K of the Schedule-9 of the Tariff Regulation 2007 and 2011 that norms for intra-state Transmission Loss of DVC will be laid down in due course on conclusion of different legal proceedings.



- 7.0 In the instant petition DVC submitted that Hon'ble Supreme Court has finally vide its order dated 23.07.2018 upheld the judgement of APTEL. Hence DVC prayed for the followings:
- a) Make necessary amendment in Tariff Regulation to accommodate the composite Transmission and Distribution Loss instead of only Distribution Loss for DVC for retail supply of electricity by DVC in the territory of the State of West Bengal.
 - b) Settle other commercial issues based on the present submission and submissions made earlier by DVC for the relevant periods.

OBSERVATION OF THE COMMISSION

- 8.0 In terms of para D of Schedule-9A of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended from time to time) 2.2% is the distribution loss of DVC for the year 2013-14 and onwards against the proportionate utilization of energy by the petitioner in their command area in West Bengal.
- 9.0 In terms of para E of Schedule-9A of the Tariff Regulations, the norms of transmission loss in the intra-state transmission system of DVC will be laid down by the Commission in due course on conclusion of different legal proceedings.
- 10.0 Hon'ble APTEL, in the Judgement and order dated 23rd November, 2007, has concluded on the status of transmission systems of DVC and regulatory power for determination of tariff of the same. Hon'ble APTEL in the said order has concluded that all transmission systems of DVC be considered as unified deemed inter-state transmission system, insofar as the determination of tariff is concerned and as such regulatory power for the same be exercised by the Central Commission. Hon'ble Supreme Court of India vide order dated 23.07.2018, in the bunch of cases being no. 971-973 of 2008, 4504-4508 of 2008 etc. has affirmed the judgement and order dated 23rd November, 2007.
- 11.0 Therefore, subsequent to the order dated 23.07.2018 of the Hon'ble Apex Court, different legal proceedings on the status of transmission system of DVC are concluded and this Commission finds it prudent to allow transmission loss to DVC for the year 2019-20 as per provision in para E of Schedule-9A of the Tariff Regulations.
- 12.0 However, due to composite nature of the transmission and distribution system of DVC, this Commission considers to allow composite T&D loss to DVC. This Commission while framing



Order of the West Bengal Electricity Regulatory Commission on the application submitted by Damodar Valley Corporation (DVC) for approval of composite Transmission & Distribution loss of DVC for its distribution activities and retail supply of electricity for the part of the Damodar Valley area falling within the territory of the State of West Bengal



the loss trajectory at 2.75% during the FYs 23-24, 24-25 and 25-26 respectively, has considered the actual composite T&D loss of DVC network of previous years as recorded in Statement of Reasons (SOR) dated 13.03.2023 published with the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Fourth Amendment) Regulations, 2023. Therefore, this Commission decides to allow composite T&D loss for the years 2019-20, 2020-21, 2021-22 and 2022-23 based on the actuals subject to the ceiling of 2.75% during tariff determination and /or truing up for the respective years. Since Commission has specified normative composite T&D loss of DVC for the years 2023-24 and onwards in the Fourth amendment of Tariff Regulations, 2011, same shall be decided as per provision of the Tariff Regulations.

ORDER

13.0 In view of above, Commission pass the order as follows:

- a) T&D loss in percentage for the composite T&D network of DVC shall be considered as per actual data submitted by DVC after prudence check subject to the ceiling of 2.75% instead of distribution loss of 2.2% as specified in the Regulations 20011 during Truing up and or/Tariff order for the period 2019-20, 2020-21, 2021-22 and 2022-23.
- b) Composite T&D loss as notified in the fourth amendment of Tariff Regulation, 2011 shall be considered for the period 2023-24 and onwards.

14.0 The petition is disposed of in terms of the above.

15.0 A copy of the order shall be posted in the website of the Commission.

16.0 DVC shall download the copy of the order from the website of the Commission.

Sd/-
(PULAK KUMAR TEWARI)
MEMBER

Sd/-
(MALLELA VENKATESWARA RAO)
CHAIRPERSON

Dated : 22.01.2024

Sd/-
DY. DIR. (ENGINEERING)