



ORDER

OF THE

**WEST BENGAL ELECTRICITY REGULATORY
COMMISSION**

IN THE MATTER OF

CASE NO: TP(R)-36/21-22

IN REGARD TO PETITION SUBMITTED BY INDIA POWER
CORPORATION LIMITED FOR REVIEW OF MULTI YEAR TARIFF
ORDER DATED 09.07.2021 FOR THE YEARS 2018 – 19 & 2019 - 20
ISSUED BY THE COMMISSION IN CASE NO. TP-78/18-19

PRESENT:

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

DATE: 13.12.2022



FACTS IN BRIEF

1. This is in regard to the petition submitted by India Power Corporation Limited on 9th September, 2021 in terms of section 94(1)(f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 for review of Multi Year tariff order for the year 2018 – 2019 and 2019-2020 issued by the Commission vide order dated 09.07.2021 in case no. TP-78/18-19.
2. In their review petition, IPCL has sought review on the following issues:
 - a) Erroneous consideration of ex-bus generation figure in para no 3.6.2.4;
 - b) Determination of inflation rate of 4.72% for FY 2018-19 and 4.02% for FY 2019-20;
 - c) Non-determination of Norms for FY 2018-19 and 2019-20;
 - d) Fuel Cost for 12 MW DPS;
 - e) Power Purchase Rate from DVC;
 - f) Power Purchase from WBSEDCL;
 - g) Computation of Employee Expenses;
 - h) Disallowance in O&M expenses for Distribution Segment
 - i) Addition of Gross Assets
 - j) Computation of Depreciation
 - k) Coal and Ash Handling Charges
 - l) Other Finance Charges
 - m) Consumer Security Deposit
 - n) Provision for Bad Debts
 - o) Erroneous addition of Debt considered
 - p) Same Tariff for new tariff categories I-3(H)A & I-3(H)B as well as I-4(H)A & I-4(H)B



q) Non-Consideration of carrying cost on J K Nagar Transmission Asset

OBSERVATIONS OF THE COMMISSION

3. The Commission observed that, after filing the review petition before the Commission, IPCL has preferred an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) in DFR No. 400 Of 2021 and IA No. 2056 of 2021. Under Section 114 and Rule 1(2) of Order 47 of the Code of Civil Procedure, the commission cannot entertain review application on the self same issues by the same person in respect of which an appeal has been filed before the higher Court.
4. Issues raised in appeal before the Hon'ble APTEL are same as are raised in the review petition pending before this Commission both in terms of letters and spirit. Therefore, the Commission has no jurisdiction to entertain the review petition in respect of which the appeal is pending before higher court of law, in terms of Section 114 and Order 47 rule 1(2) of the Code of Civil Procedure.

ORDER OF THE COMMISSION

5. In view of the above, the Commission dispose of the review petition in the negative.
6. IPCL is to take note of this order.
7. IPCL shall download the copy of the order from the website of the Commission and act on it. Certified copy of the order, if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-

**(PULAK KUMAR TEWARI)
MEMBER**

Sd/-

**(MALLELA VENKATESWARA RAO)
CHAIRPERSON**

DATED: 13.12.2022

**Sd/-
SECRETARY**