



**ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN CASE NO. TP (R) – 50 / 24 – 25**

IN REGARD TO THE APPLICATION SUBMITTED BY INDIA POWER CORPORATION LIMITED (IPCL) FOR REVIEW OF MULTI YEAR TARIFF (MYT) ORDER OF IPCL FOR THE SEVENTH CONTROL PERIOD COMPRISING OF THE FINANCIAL YEARS 2020 – 21, 2021 – 22 AND 2022 – 23 UNDER 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

**PRESENT:
SRI MALLELA VENKATESWARA RAO, CHAIRPERSON**

DATE: 27.09.2024



Facts in brief:

- 1.0 India Power Corporation Limited (IPCL) has submitted a review petition on 09.05.2024 under 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 seeking review of the order dated 13.03.2024 in Case No. TP – 94 / 20 – 21 passed by the West Bengal Electricity Regulatory Commission (Commission) in regard to the Multi Year Tariff application of IPCL for the Seventh Control Period comprising of the financial years 2020 – 21, 2021 – 22 and 2022 – 23.
- 2.0 In their review petition, IPCL has submitted that there are certain errors apparent on the face of the record in the impugned order of the Commission and accordingly they are filing the review petition with a prayer to admit the petition and review the Tariff order to the extent indicated in the petition. IPCL in their petition inter-alia has put forward the following issues for review:
 - A. Erroneous computation of Interest Credit
 - B. Incorrect Tariff Design related to Tariff Schedule for 11 kV consumers
 - C. Not considering actuals while determination of norms for 2020 – 21, 2021 – 22 and 2022 – 23
- 3.0 Subsequently, IPCL vide additional submission dated 18.06.2024, under affidavit prayed to not press the issue related to tariff schedule for 11 kV consumers.

Observations of the Commission:

- 4.0 Now, the Commission proceeds to find whether any case for review has been made out by the Review Petitioner in terms of section 114 read with Order 47 Rule 1 of CPC, according to which a person aggrieved by order of a Court can file review on the following grounds, if no appeal against the said order has been filed:
 - (a) Discovery of new and important matter of evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him when the decree was passed or order made.



- (b) On account of some mistake or error apparent on the face of record; and
- (c) For any other sufficient reason.

5.0 In view of the above, the review sought by IPCL on the items mentioned in paragraph 2.0 above are discussed below:

A. Erroneous computation of Interest Credit:

Submission of IPCL:

In the review petition, IPCL stated that the Commission while computing the Interest Credit in the impugned order for 2020 – 21, 2021 – 22 and 2022 – 23 has erred by considering the cumulative excess depreciation over repayment, whereas the regulation proposes to consider yearly depreciation during computation of interest credit. IPCL prayed before the Commission to compute the Interest Credit considering the approved depreciation for the year over the repayment made in place of the cumulative approach taken in the impugned order.

Observation of the Commission:

The Commission observes that in terms of the WBERC Tariff Regulations, 2011, as amended from time to time, depreciation is primarily used for repayment of capital loan. Where, the amount of depreciation falls short of amount of loan repayment such shortfall is allowed under advance against depreciation (AAD) limited to 1/10 of original amount of allowable loan. Similarly, when amount of loan repayment in a year is more than allowed depreciation, an interest credit at the rate of weighted average cost of debt for the corresponding year needs to be adjusted on such excess depreciation charged. Further in terms of the 2nd proviso of regulation 5.5.2 of the Tariff Regulations, it is required to be ensured that **the cumulative depreciation allowed should not go beyond 90% of the original cost of Asset** and after repayment of entire loan the resulting depreciable amount shall be spread over the balance useful life of the fixed asset.

Thus, to ensure that cumulative depreciation does not go beyond 90% of asset value it is found logical to consider the cumulative depreciation and AAD admitted till date. The Commission had already elaborated the matter and its decision in paragraph 6.17 of



the impugned order dated 13.03.2024. The Commission notes that, IPCL has prayed to review the decision taken by the Commission in the impugned order. Thus, this does not come under the scope of review under section 94(1)(f) of the Electricity Act 2003 read with Order 47 Rule 1 of CPC.

B. Incorrect Tariff Design related to Tariff Schedule for 11 kV consumers:

Submission of IPCL:

In the review petition, IPCL has pointed out some issues related to the Tariff Schedule approved by the Commission for 11 kV consumers.

Observation of the Commission:

The Commission noted the submission of IPCL dated 18.06.2024, where the petitioner has prayed for not press the issue. The Commission accordingly, decides to dispose of the aforesaid issue as not pressed.

C. Not considering actuals while determination of norms for 2020 – 21, 2021 – 22 and 2022 – 23:

Submission of IPCL:

- i. In the review petition, IPCL inter-alia submitted that, while specifying the Operation & Maintenance (O&M) expense for 6th and 7th control period, the Commission has not considered the actual figures for 2017-18.
- ii. The petitioner also submitted that, a report of National Productivity Council (NPC) which includes the performance and efficiency achieved by IPCL i.r.o of its 12 MW generating station was placed along with its tariff petition. The NPC report specifies the Station Heat Rate (SHR) as 3460 kCal/ kWh and Auxiliary Consumption as 12.40% for the 12 MW unit at DPSC, against the normative SHR of 3300 kCal/kWH and normative auxiliary of 10% specified in the Tariff Regulations. IPCL submitted that the Commission has erred by not considering the recommendation of the NPC report.

In view of the above, petitioner prayed to consider the actual figures and the NPC report and redetermine the normative values.



Observation of the Commission:

- (i) In terms of Tariff Regulations, O&M expenses is prima-facie controllable in nature, i.e. the licensee has to maintain its overall O&M expense within the target specified in the Tariff Order, except there is major variations in inflation or business volume of the licensee. The Commission has accordingly determined the admissible O&M expenditure of the petitioner based on approved expense of previous years, increase in business volume and impact of inflation. Now, the proposal of petitioner to consider actual O&M expense of a year instead of considering approved O&M expense, will eventually lead to pass through of unadmitted expenses of the previous years.
- (j) The Commission has considered the operational parameters viz. Plant Availability Factor (PAF), Plant Load Factor (PLF), Station Heat Rate (SHR), Auxiliary Consumption, Transit Loss of Coal and Man per MW ratio as specified in the WBERC Tariff Regulations, 2011, as amended from time to time. These regulations were finalized following the procedure of previous publications in terms of the Electricity Act 2003 and considering the suggestions/ objections from stakeholders. The Commission observes that the prayer of IPCL to consider the report of National Productivity Council is prima facie, a prayer which requires amendment of the Tariff Regulations and does not come under the purview of review.
- 6.0 Thus, the review sought for on the issue raised in point 'A' and 'C' of paragraph '5.0' above is prayer to review ratio of prudence adopted by the Commission and has no substance for review and the Commission keeping in mind that it is estopped from encroaching upon the jurisdiction of the appellate Court does not propose to entertain the above prayers for review. Issue raised in point 'B' is disposed of as not pressed.

Order:

- 7.0 On the basis of observations given above, the Commission finds that there is no error on the face of the order and thus, there is hardly any scope of review on the issues raised by IPCL in the instant review petition and thereby directs the review petition to be disposed of



Application submitted by India Power Corporation Limited (IPCL) for review of Multi Year Tariff (MYT) order of IPCL for the Seventh Control Period comprising of the Financial Years 2020 – 21, 2021 – 22 and 2022 – 23 under 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



having no merit and thereby affirming the decisions already taken in the order dated 13.03.2024.

- 8.0 A copy of the order shall be posted in the website of the Commission.
- 9.0 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/-

**(MALLELA VENKATESWARA RAO)
CHAIRPERSON**

Dated: 27.09.2024

**Sd/-
(SECRETARY)**