

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005**  
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**Case No.42 of 2012**

**IN THE MATTER OF**

**Petition filed by M/s Adani Power Maharashtra Limited's Transmission Business, seeking rectification/clarification in respect of Order dated March 27, 2012 in Case No. 60 of 2011 under Section 94 (1) (f) of Electricity Act, read with Regulations 92, 93, 94 and 95 of the MERC (Conduct of Business) Regulations, 2004.**

**Shri V. P. Raja, Chairman**  
**Shri Vijay L. Sonavane, Member**

**Date: 05 July, 2012**

**CLARIFICATORY ORDER**

M/s Adani Power Maharashtra Limited's Transmission Business (APML-T), filed a Petition under Affidavit before the Commission on 2 May, 2012 seeking clarification in respect of the Commission's Order dated 27 March, 2012 in Case No. 60 of 2011 regarding approval of Multi Year Tariff (MYT) business plan for FY 2012-13 to FY 2015-16 under Regulations 7 and 57 of the MERC (Multi Year Tariff) Regulations 2011.

2. The Petitioner has made the following prayers:

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- a) *Admit the petition;*
- b) *Rectify the method of computation of the interest on long-term loan for FY 2012-13;*
- c) *Revisit and modify the direction for submission of completed capital cost along with its MYT petition;*

- d) *Revisit and modify the observations on linking recovery of transmission tariff with APML-G's generation project;*
- e) *Revisit and modify the observation on capacity off-take risks for APML's Transmission Business;*
- f) *Condone any inadvertent omissions/errors/shortcomings and permit APML to add/change/modify/alter this filing and make further submissions as may be required at a future date;*
- g) *Allow any relief, Order or direction, which the Hon'ble Commission deems fit to be issued; and*
- h) *Pass such further Orders, as the Hon'ble Commission may deem fit and appropriate keeping in view the facts and circumstances of the case."*

3. The Petitioner in the petition has sought for clarifications in respect of the following four issues:

**a) The methodology used in computation of the interest on long term loan for first year of operation (i.e., FY 2012-13)**

The Petitioner APML-T submitted that interest on long term loan for FY 2012-13, being the first year of operation of its transmission scheme, should be computed by considering the opening balance of loan from the date of commercial operation. Hence, the average loan to be considered for the purpose of computation of interest on long term loan should be Rs 420.42 crore instead of Rs 203.39 crore, as considered in the business plan Order in Case No. 60 of 2011. The Petitioner APML-T submitted that there is an error in the methodology for calculation of interest on the long term loan for FY 2012-13, which needs to be rectified.

**b) Clarification on submission of capital cost of the transmission project for prudence check along with the audited financial statements for completed capital cost up to date of commercial operation (CoD) at the time of approval/finalisation of the MYT Petition to be filed by APML-T**

The Petitioner APML-T submitted that since it is yet to achieve Commercial Operation Date (COD) for its transmission scheme it will not be able to comply with the direction issued by the Commission in Case No 60 of 2011 regarding the submission of the Audited Financial Statements for completed cost along with MYT Petition within 30 days from the date of the issuance of business plan Order. Therefore the Petitioner APML-T has requested the Commission to issue

clarifications with regard to its direction for submission of the completed capital cost along with the MYT Petition.

**c) Commission's Observations on construction risk wherein recovery of Annual Revenue Requirement('ARR') of licensed transmission business of APML-T was linked with commissioning of generating units of APML-G**

The Petitioner APML-T submitted that its licensed transmission business and the generation business of APML-G are separate, with distinct obligations towards their lenders for such business, and hence, they cannot be linked together. The Petitioner APML-T also submitted that the first unit of the generating station of APML-G is ready from April 2012 and is awaiting for the completion of the transmission system of APML-T. Hence, the Petitioner APML-T has requested the Commission to review its observations on linking recovery of transmission tariff with the commissioning of APML-G's generating project.

**d) Commission's Observations on capacity off-take risk on account of under utilisation of transmission capacity**

The Petitioner APML-T submitted that the planning of intra-state transmission lines is done by the state transmission utility (STU) based on the Open Access Applications received. In this regard, the 400 kV D/C Tiroda-Warora line has been planned subsequent to open access application of MSEDCL for the evacuation of 1320 MW of power from the Tiroda power project bus-bar, pursuant to its Power Purchase Agreement with APML. Furthermore, the Petitioner APML-T submitted that considering 'n-1' criteria, the question of under-utilisation of transmission capacity does not arise. It was also submitted by the Petitioner that in view of the transmission pricing framework laid down by the Commission vide Order dated 26 June, 2006 the recovery of transmission charges is linked to availability of the transmission system. In this context, the Petitioner APML-T stated that the recovery of transmission charges cannot be linked to the expected utilisation of the full capacity of the transmission system.

4. The Commission scheduled an admissibility hearing in the above matter on 15 June, 2012. During the hearing, the Petitioner prayed that its Petition be admitted and that clarifications sought for on the aforesaid aspects, be issued by the Commission.

5. Based on the written and oral submissions of the Petitioner during the hearing, the Commission admitted the Petition to the extent it is limited to prayers (b) and (c) . As regards prayers (d) and (e) are concerned, as stated in the MYT business plan Order in Case No. 60 of 2011, the Commission is of the view that no further clarification is required in this regard as the Commission has only identified the existing risks. Furthermore, there is no adverse impact on the ARR of the Petitioner on this account. More importantly, there is no error apparent on the face of the record.

6. As regards the methodology for computation of the interest on long term loan for the FY 2012-13 the Commission is of the view that the computation of interest on long term loan under the MYT business plan Order in Case No. 60 of 2011 has been done strictly in accordance with the MERC (Multi Year Tariff) Regulations, 2011.

The relevant portions are reproduced herein below:

*“33 Interest on loan capital*

...

*33.6 The interest on loan shall be calculated **on the normative average loan of the year** by applying the weighted average rate of interest. **(Emphasis Added)**”*

However, it was observed that FY 2012-13 being the first year of operation of the transmission system for APML-T, it shall be prudent to compute interest on long term loan on a pro-rata basis, in line with the COD of the transmission system and number of operational days of such transmission system in the particular financial year.

However, the Commission would like to highlight that the MYT business plan Order only analyses the projections of the ARR based on the projected capital expenditure and O&M expenses so that the consumers would get an idea of the impact of the plans proposed by the licensees, and the ARR and the ARR components thereof as computed by the Commission in the said MYT business plan Order shall not be considered for the purpose of computation of transmission tariff. The final ARR, which shall have a bearing on the transmission tariff during the second control period, shall be approved as part of the MYT Order for the second control period.

Thus, it is clarified that the issue relating to the review of methodology for computation of interest on long term loan for FY 2012-13 for APML-T, shall be considered under the regulatory process on the MYT Petition filed by APML-T and on the basis of the latest available status of the commissioning date of the transmission system of the Petitioner as submitted under the said MYT Petition.

7. As regards the Commission's direction on submission of completed capital cost along with MYT Petition, the Commission is of the view that the directions were issued during the proceedings in the matter of approval of business plan based on assurances given by the Petitioner regarding the probable date of achieving COD. The Petitioner has already submitted its MYT Petition and the regulatory process connected therewith is underway. No purpose will be achieved by revisiting the direction given earlier by the Commission in the Order approving the business plan. The Petitioner will need to make its case in the regulatory process which is underway for approval of the MYT Petition, as to the adequacy and reliability of the data and documents pertaining to the Capital Cost as completed at the time of filing of the MYT Petition.

With the above clarifications, APML-T's Petition in Case No. 42 of 2012 stands disposed of.

Sd/-  
(Vijay L. Sonavane)  
Member

Sd/-  
(V. P. Raja)  
Chairman