

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No .162/MP/2011

Sub: Petition under Section 62 read with Section 63 of the Electricity Act, 2003 for determination of transmission charges for additional scope of work and corresponding amendment of transmission charges approved by Hon`ble Commission vide its order dated 28.10.2010 for transmission system being established by petitioner as there is a change/addition in the scope of work of the project.

Date of hearing : 8.9.2011

Coram : Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member

Petitioner : East-North Interconnection Company Limited

Respondents : Punjab State Transmission Corporation Limited and Others.

Parties present : 1. Ms Meenakshi Arora, ENCIL
2. Ms Ambica Garg, Advocate for ENCIL
3. Shri S. Venkatesh, ENCIL
4. Shri T.A. Reddy, ENICL

Record of Proceedings

The learned counsel for the petitioner submitted that the petitioner was the successful bidder for developing the transmission lines between Biharsariff and Purnea in one sector and Bongaigaon and Siliguri in the other sector. On the basis of the bid documents, certain coordinate locations of starting points and end points have been communicated by the Power Finance Corporation through its survey reports and other points. During the bid process a clarification was sought from Power Finance Corporation as to what would be the starting point and ending points. The following clarification was provided by PFC:

“The start and the end points will be the substations of PGCIL at the respective locations and the obligations for arranging their connection shall be as per para 4.2.1 of the TSA”.

The learned counsel for the petitioner submitted that PFC did not clarify that the coordinates in any manner were different and on the contrary, it was clear from the clarification that the survey report and bid documents which contained specific coordinates were correct and whatever would be the determination would be arranged by PGCIL in accordance with para 4.2.1 of the TSA. Another clarification provided by BPC was that there was no forest stretches in the route alignment as per the survey report and initiation of the process of seeking forest clearance is not required.

2. The learned counsel for the petitioner submitted that the survey report that was provided to the petitioner contained a summary sheet and a detailed data sheet. The summary sheet provided the coordinates and the data sheet provided tower by tower description of the transmission line to be constructed. There is a mistake between the summary sheet and data sheet. Since the data sheet provided tower by tower details of the transmission lines and commencement and termination at particular gantries, the petitioner adopted the datasheet and proceeded on that basis. Subsequently a letter was received from PGCIL stating the sub-stations where the power transmission lines had to be ended. The said letter also gave the termination and commencing coordinates which were different from the coordinates provided in the data sheet. The difference that is coming in the two transmission lines is about 80 kms. Apart from that, when there was a categorical commitment that there was no forest land and no forest clearance was required, the Bongaigaon end has to necessarily terminate through a forest land into a sub-station.

3. The learned counsel submitted that the petitioner's requirement was to terminate at a sub-station. Either the sub-stations should be provided to the petitioner at the coordinates that are mentioned or in the event the petitioner was required to go to the sub-station and when there is a material difference in the transmission length, necessary pro-rata increase in the transmission length has to be taken into consideration for the purpose of determining the tariff.

4. The learned counsel referred to the letter written by the petitioner to the Central Electricity Authority (CEA) seeking clarification regarding the correct coordinates of the sub-stations and the reply received from the CEA and submitted that as clarified by CEA, the transmission lines of the petitioner would have to be terminated at the respective gantries of PGCIL. If there is any change in transmission line length and cost due to actual locations of PGCIL's sub-stations, the same shall be dealt with as per the contract and Transmission Service Agreement (TSA). The learned counsel further submitted that two provisions in the TSA are relevant. First is the Change of Law and second is the clarification given to the bidders which stated that the start and the end points would be the substations of PGCIL at the respective locations and the obligations for arranging their connection shall be as per para 4.2.1 of the TSA.

Para 4.2.1(b) of the TSA provides that "subject to the terms and conditions of this agreement, Long Term Transmission Customers (LTTs), at their own cost and expense, undertake to be responsible for arranging and making available the Interconnection Facilities to enable the TSP to connect the project". Therefore, it is the responsibility of the LTTs to provide for the interconnection or the substation where the line is to be terminated. The petitioner has been awarded the project on the basis of certain coordinates mentioned in the survey report. If the petitioner is required to go beyond the specified coordinates, then there is a far more additional cost for which pro-rata tariff should be provided. Alternatively, it is the obligation of LTTs to provide interconnection or to bring the sub-station to the termination point.

5. In reply to a query of the Commission as to under which provision of the Electricity Act, 2003 (the Act) the petition is maintainable, the learned counsel for the petitioner submitted that the application has been filed under sections 62, 63 and 79 of the Act.

6. The Commission decided to address the question of maintainability of the petition after hearing all concerned parties. Accordingly, the Commission directed to issue notices to the Long Term Transmission Customers of the project, the Central Transmission Utility, Central Electricity Authority and the Bid Process Coordinator of the project. The Commission further directed the petitioner to serve copies of the petition on the above mentioned agencies/authorities by 5.10.2011 who shall file the responses to the petition by 20.10.2011 and the petitioner may file its response by 31.10.2010.

7. The Commission has also desired the assistance of the representatives of the CTU, CEA and Bid Process Coordinator during the next hearing of the petition.

8. The petition shall be listed for hearing for final disposal on 15.11.2011.

Sd/-
(T. Rout)
Joint Chief (Law)