

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

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

Date of Hearing: 20.9.2011

Petition No .140/2011

Sub: Miscellaneous petition under Regulation 29 of the Central Electricity Regulatory Commission (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 read with Regulations 24,111,114 and 115 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for making appropriate provision in the RLDC charges regulations for billing of RLDC Charges directly by the Power System Operation Company to the long-term customers of the power stations

Petitioner : NTPC Limited, New Delhi

Respondents : Power System Operation Corporation Ltd. and Others.

Petition No .165/2011

Sub: Miscellaneous petition under Regulations 29 Power to relax of the Central Electricity Regulatory Commission (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 for recovery of System Operation Charges (RLDC Charges) for the period 2009-14.

Petitioner : Powerlinks Transmission Ltd., Delhi

Respondents : Power Grid Corporation of India Ltd & Others.

Parties present :
1. Shri V.K.Padha, NTPC
2. Shri Ajay Dua, NTPC
3. Shri Ajay Bagri, PTL
4. Miss Nita Jha, PTL

5. Shri R. B. Sharma, Advocate, BSEB
6. Shri S.K.Sonee, NLDC
7. Shri V.K.Agarwal, NLDC
8. Shri R.K.Bansal, NRLDC
9. Miss Joyti Prasad, NRLDC
10. Shri Manoj Dubey, MPPTCL
11. Shri Abhishek Srivastava, BYPL
12. Shri Pankaj Dhingra, BYPL
13. Shri Shekhar, BYPL
14. Shri Sunil Kakkar, BYPL
15. Shri Haridas Murthy, BYPL
16. Shri S.R.Sarangi, GRIDCO
17. Shri Prashant, SJVNL
18. Shri Dushuant Honocha, BSES

Record of Proceedings

Through these petitions the petitioners, NTPC Ltd and Powerlinks Transmission Ltd. have requested to make appropriate provisions in the Central Electricity Regulatory Commission (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2009 (hereinafter referred to as 'the RLDC fees and charges regulations') for billing of fees and charges directly by the POSOCO to the long term customers i.e. DICs (Designated ISTS Customers) and until the amendment of the RLDC fees and charges regulations or if decided otherwise, allow to recover the RLDC charges paid/payable from the beneficiaries.

2. The representative of the Powerlinks transmission Ltd. (PTL) submitted that appropriate provisions are required to be made for reimbursement of RLDC fees and charges as the same are not covered in the Operation and Maintenance charges under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (the 2009 regulations).

3. The representative of NTPC Ltd submitted that in a cost plus regime, the RLDC fees and charges should be allowed as a pass through. He submitted that the Commission has unconstrained power under Regulation 29 of the RLDC fees and charges regulations to grant relief in this matter. He further submitted that direct billing to the distribution licensees for RLDC fees and charges would be beneficial in terms of less tax liability.

4. The representative of the NLDC submitted that Section 29 (3) of the Electricity Act, 2003 (hereinafter referred to as 'the Act') provides that the directions of the RLDCs issued to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those

connected to the ISTS) or substation in the State shall be issued through the SLDC who shall also ensure compliance by the generating company or licensee or sub-station. Section 28 (4) of the Act empowers RLDCs to levy fees and charges from the generating companies or licensees engaged in inter-State transmission of electricity as per the regulations specified by the Commission under Section 178 (2) (h) of the Act. In other words, the jurisdiction of RLDCs to levy and collect fees and charges is at the regional level. He submitted that in accordance with Regulations 3 (19) and 3 (25) of the RLDC fees and charges regulations, the responsibility for payment of RLDC charges to POSOCO rests with the generating companies and the transmission licensees, instead of the distribution licensees which are not directly under the control of RLDCs. With regard to the analogy drawn by NTPC Ltd between the Point of Connection (PoC) charges and RLDC fees and charges, the representative of NLDC clarified that PoC charges are related to tariff and are dealt with under Sections 62 and 79 of the Act while the RLDC fees and charges are dealt with under Section 28(4) read with section 178 (2) (h) of Act. The representative of NLDC further submitted that since the ultimate beneficiaries in case of merchant generation are not known, the billing and collection of RLDC fees and charges directly from the beneficiaries of these generating stations would not be feasible. He also expressed concern about the negative effect on reform process as a number of States have issued regulations on the fees and charges of SLDCs in line with the RLDC fees and charges regulations. The representative of NLDC emphasized that since the generators and the transmission licensees are using services of RLDCs, they have the liabilities to pay the RLDC fees and charges.

5. CEO, Power Systems Operation Company submitted that the prayers of the petitioners for direct billing of the distribution licensees for RLDC fees and charges is against the reform process and should not be allowed.

6. The learned counsel for Bihar State Electricity Board (BSEB) and Jharkhand State Electricity Board (JSEB) submitted that though the present petition of Powerlinks has been filed for invoking the "Power to Relax" provisions under Regulation 29 of the RLDC fees and charges regulations, the prayer of the petitioner is for amendment of the regulations. He submitted that the petitioner should clearly indicate whether it is seeking relaxation or amendment of the provisions of RLDC fees and charges regulations. In case of relaxation, the petitioner should clearly indicate the particular provisions of RLDC fees and charges regulations, 2009 which is sought to be relaxed. Learned counsel requested the Commission to direct the petitioner to clarify its stand by suitably amending the petition so that the respondents can file their response accordingly.

7. The representative of UPPCL submitted that RLDC fees and charges should not be passed on to the distribution licensees. He submitted that in case the Commission decides to allow recovery of fees and charges from the

beneficiaries, in that event it should be directly billed to distribution licensees in order to avoid problems related to service tax.

8. The representative of the MPPTCL submitted that the petitions should not be admitted since the utilities which are likely to be affected by the decision in the matter have not been impleaded as parties.

9. The representative of PGCIL submitted that it has filed a petition on the similar issue. He supported the views of NTPC and Powerlinks for direct billing of the RLDC fees and charges to the distribution licensees.

10. After hearing all the concerned parties, the Commission clarified that issues regarding billing, etc of RLDC fees and charges was considered at the time of framing of RLDC fees and charges regulations and therefore, the issue of direct billing is not relevant at this stage. The only question that requires to be decided is whether the liability of inter-State transmission licensees and the generating companies (whose tariff is being determined by the Commission) for payment of their share of RLDC fees and charges should be allowed as a pass through in tariff.

11. The Commission directed to issue notices to the generating companies and the inter-State transmission licensees whose tariff is being determined by the Commission under section 62 of the Act, POSOCO and the distribution licensees to file their responses on the issue framed by the Commission in the preceding paragraph latest by 20.10.2011.

12. The Commission directed to tag all petitions on similar issue with these petitions.

13. The matter will be taken up for hearing on 15.11.2011.

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